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SECTION 300 – ENVIRONMENTAL DOCUMENTATION AND PROCEDURES

SECTION 310.00 – OVERVIEW

This section describes the environmental documentation requirements for Federal Aid ITD projects. Detailed guidance is given for the major steps in the environmental review process. The section focuses on documentation and procedural requirements:

- Documents and procedures required for three classes of projects: those Categorically Excluded (named Categorical Exclusions or CEs) from environmental impact statement requirements (CE), those requiring an Environmental Assessment (EA), and those requiring an Environmental Impact Statement (EIS).
- Specific guidance for an EA
- Specific guidance for NEPA EISs.
- Preparation of the NEPA document
- Standards applicable to all environmental documents.
- Guidance for Section 4(f), Section 106 evaluations, reevaluations and supplementary documents.

Overall guidance on NEPA documentation requirements is online at FHWA's web site: (<http://www.fhwa.dot.gov/> Click on FHWA Programs, then Environment, then NEPA, then NEPA: Document Development Process, then Documentation or <http://www.environment.fhwa.dot.gov/projdev/pd4document.asp>

310.01 Abbreviations and Acronyms. Abbreviations and acronyms used in this section are listed in [Section 210.01](#). Others are found in the general list in the appendix.

310.02 Glossary.

Discipline Report - A Discipline Report is simply a convenient name for the various reports that are required for an Environmental Document. For instance, a noise report, a wetland report, an EJ report, etc., are all Discipline Reports. The term is being used in this manual to encompass the series of reports being discussed in a particular narrative instead of listing each report by name.

For an additional glossary of terms used in this section, see [Section 210.02](#).

SECTION 320.00 – DOCUMENT STANDARDS

This section covers standards for documents prepared in the environmental analysis and review process.

320.01 Level of Detail. All NEPA environmental documents should be as concise as possible. Previous DEQ guidelines have suggested a length of not more than 15 pages for EAs. This restriction is difficult to attain given the current requirements from various permitting agencies. The intent is still valid however. A NEPA EIS of unusual scope or complexity should not exceed 300 pages (40 CFR 1502.7) and a goal of 150 pages for a typical EIS is suggested. The level of detail provided for each element of the environment analyzed should be commensurate with the significance of its impact.

Impacts and alternatives should be discussed only to the level of detail appropriate to the level of affect for the proposal. The EA discussion of alternatives should be limited to a general discussion of the impacts of the alternatives, including any required mitigation measures. Typically a no-build alternative and a preferred alternative are sufficient for an EA. Additional alternatives should be included based on their appropriateness in meeting the stated purpose and need. In some cases the build/no-build alternatives are sufficient to meet consideration requirements. Any time there are two or more alternatives that meet the purpose and need of the project, each alternative must be discussed in detail. The level of information is also dictated by the amount of design effort required to determine the footprint of the proposal. The project footprint, or area, allows the type, size, and location of the facility to be identified, which determines the scope of analysis of the impacts.

For a draft EIS, all reasonable alternatives under consideration (including no-build) need to be developed to a comparable level of detail in the draft EIS so their comparative merits may be evaluated (40 CFR 1502.14(b) and (d)). One exception to the comparable level of detail is described in FHWA Technical Advisory T 6640.8A (*Exhibit 300-4*), Section V, Part E. Alternatives: “Development of more detailed design for some aspects (e.g., Section 4(f), COE or CG permits, noise, wetlands) of one or more alternatives may be necessary during preparation of the draft and final EIS to evaluate impacts or mitigation measures or to address issues raised by other agencies or the public.”

A second exception is allowed in SAFETEA-LU to (1) facilitate the development of mitigation measures, or (2) to facilitate concurrent compliance with other environmental laws.

320.02 Using Existing Documents. NEPA/CEQ regulations allow the use of existing documents to reduce duplication and unnecessary paperwork. If an analysis has already been done for the proposed project or a similar project, it does not need to be duplicated. Existing documents can be used in any of the following ways:

- Adoption (CEQ 40 CFR 1506.3).
- Addendum (CEQ 40 CFR 1502.9).
- Incorporation by reference (CEQ 40 CFR 1502.21).
- Supplemental EIS (CEQ 40 CFR 1502.9).

This is an important aspect of gathering environmental data that is often overlooked. Any environmental document should include a list of literature searched for baseline data. If any of this literature is pertinent to the project, it should be incorporated by reference or as an appendix if it is especially useful.

The District Environmental Planner is encouraged to conduct a literature search prior to engaging a consultant. If there is sufficient published literature to cover the impacts of the project, a consultant may not be needed. Reference the information in a narrative that ties the project description to the literature, add the required forms for the document class and use that literature as the field work data as far as it is pertinent. This may suffice for the NEPA document as long as all other requirements are met.

320.03 EIS Format Standards. ITD has developed publication format standards so the department can prepare an EIS that is consistent in appearance and easy to read and reference (see [Section 360.00](#)). These standards should be followed when preparing an ITD EIS, unless the Environmental Section Manager approves an exception. FHWA guidelines describe three options

for preparing a NEPA Final EIS: traditional, condensed, and abbreviated. [See FHWA Technical Advisory T 6640.8A (*Exhibit 300-4*) and. <http://www.usdoj.gov/crt/508/508law.html>]

The City of Seattle and Washington State DOT recently prepared an EIS in what has been called the “Coffee Table” format. This format is very reader friendly and has caused considerable discussion in transportation departments across the nation. The result has been a call for a fresh look at the way an EIS is prepared so as to make the document more readable and understandable for the general public. Although the particular Washington EIS format has not been widely adopted and has some legal sufficiency problems, it does have value as an example of use of graphics and the use of the question and answer format. Contact FHWA for discussion before considering use of this or a similar format.

320.04 Tri-Message Page. On the back of the EIS/EA title page, or within any document that is typically available to or reviewed by the public, three standard messages should be displayed:

- Information access for people with disabilities (ADA requirement).
- Assurance of compliance with the Civil Rights Act, Title VI.
- Note on units of measurement (English or metric) – now optional since metric units are no longer required by FHWA.

320.04.01 Information Access for Persons with Disabilities. Below is a notice that is to be included in all environmental documents distributed to the public. This notice should be on a separate page, immediately following the title page of the EIS or EA, and in larger type than the rest of the document. Refer to the “Tri-Message Page” on *Exhibit 300-1*, page 27. Also (<http://www.fhwa.dot.gov/> Click on Legislation and Regulations, then FHWA Directives and Policy Memorandums, then FHWA Technical Advisories, then T6640.8A.)

Persons with disabilities may request this information be prepared and supplied in alternate forms by calling the ITD District Environmental Office at xxx-xx-xxxx* or ITD Headquarters Environmental Office at 208-343-8842.

For general information, this ADA message pertains to advertising a public meeting or written material such as a newsletter:

“The site is accessible to persons with disabilities. Individuals requiring reasonable accommodation may request written materials in alternative formats, sign language interpreters, physical accessibility accommodations, or other reasonable accommodation by calling the ITD District Environmental Office at (Insert the local District Office number) or ITD Headquarters Environmental Office at 208-343-8842.

320.04.02 Civil Rights Assurance.

Include the following statement:

“Idaho State Department of Transportation (ITD) hereby gives public notice that it is the policy of the department to assure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, Executive Order 12898, and the related statutes and regulations in all programs and activities. Title VI requires that no person in the United States of America shall, on the grounds of race, color, sex, national origin, or low income, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which ITD receives federal financial assistance.”

320.04.03 Metric Measurement Units. ITD's policy is to require only English units of measurement. FHWA no longer requires use of metric units for environmental documents and Section 4(f) Evaluations published under FHWA rules. Since federal and state permitting agencies are not accustomed to working in metric units, all permit drawings will be submitted in English units with no reference to metric equivalence. NOAA Fisheries Service accepts either metric or English units for Biological Evaluations/Biological Assessments.

The scientific community will still use metric units so consultants should be instructed to observe ASTM E 380-92 as a source of information on metric conversion. If both measures are used, the English unit should come first, followed by the metric unit in parenthesis; for example: "The HOV lane is separated from adjacent lanes by a designated buffer width of 2 to 4 ft (0.6 to 1.2 m).

320.05 Availability and Cost of Environmental Documents. The lead agency shall retain NEPA documents and make them available to the public in accordance with 23 CFR 771.119(e) and (f), 23 CFR 771.123(g), and 23 CFR 771.125(g). Copies may be furnished free of charge in most instances, but in some cases a nominal fee may be charged, but not to exceed the actual cost of reproducing the document.

If a fee is charged for a document, the document should include the following statement: **"The cost of this document is \$____, which does not exceed the cost of printing."**

The document should include a statement that "This document is available for public review at the following locations..." such as ITD District Office, DEQ, ITD Headquarters, FHWA or other federal agency offices, public libraries, and city or county government offices. Preliminary environmental documents are not subject to Freedom of Information Act requirements for public disclosure. For preliminary review, a DEIS or FEIS is distributed for agency review prior to release of the DEIS or FEIS to the public.

Pursuant to FHWA legal guidance, the following language should be added to the outside cover of a preliminary draft environmental document circulated for agency review:

"ITD and FHWA [co-lead agencies] have determined that the review comments on this preliminary document are an intergovernmental exchange that may be withheld under the Freedom of Information Act request. Premature release of this material to any segment of the public could give some sectors an unfair advantage and would have a 'chilling effect' on intergovernmental coordination and the success of the cooperating agency concept. For these reasons, we respectively request that the public not be given access to this document."

320.06 Use of Consultant Logo. Neither ITD nor FHWA advertises or endorses any particular consultant firm. Consultant logos on any discipline reports, NEPA documents or 106/4(f) documents are acceptable only when the product is the intellectual property of the consultant or the consultant is liable for the contents. FHWA has sole responsibility for the content of final environmental documents for federally funded highway projects. It is for this reason that company trademarks and logos are not accepted. However, the name and qualifications of the discipline report author must be included within the body of the document. This requirement should be met by adding an appendix containing a brief resume (not over 1/2 page) of the qualifications and organizational affiliation of the author(s).

A consultant logo is not displayed on:

- Promotional material for an open house or other ITD event (e.g., pamphlets, displays, newsletter, flyers, ads).

- Studies (e.g., route development or corridor feasibility studies) that compile different discipline studies that reflect an ITD position on an issue.
- Environmental documents (such as an EIS, EA, or CE). These documents typically contain a compilation of discipline study results that may be extracted and displayed out of context.

320.06.01 Discipline Reports (BA's, Wetland Reports, Noise Reports, etc.). ITD provides written comments on drafts for the consultant to address. The following text is included in the title or cover page: **“Prepared for the Federal Highway Administration.”** Following this statement add a signature line for the document author.

320.06.02 Environmental Documents. Consultant logos/names are appropriate only in an appendix titled “Studies Prepared By.” Reference is made to the consulting firm and the individual responsible for preparing the work. If the Discipline Report has been modified by ITD or FHWA, that modification should be noted in the consultant reference.

320.07 Mitigation Measures – Changes Subsequent to Document Approval. Once the environmental evaluation has been approved by FHWA, ITD is required to implement the project as described in that document. Mitigation measures described in the environmental evaluation become part of the project commitments. Any changes in the mitigation measures of an FHWA-approved environmental evaluation (CE, EA, or EIS), made for any reason whatever, **must** be submitted as a re-evaluation to FHWA for their review and inclusion in the official FHWA copies of project documents.

SECTION 330.00 – DOCUMENTS AND PROCEDURES FOR CLASS II (CE) PROJECTS

Actions that do not individually or cumulatively have a significant environmental effect, as defined in NEPA regulations, are excluded from requirements to prepare an EA or EIS. Such projects are classified as Categorical Exclusions. Projects that qualify as categorical exclusions under NEPA are listed in 23 CFR 771.117.

330.01 Required Documentation. Projects meeting the CEQ and FHWA criteria for Categorical Exclusions (CEs) are listed in FHWA regulations (23 CFR 771.117 (c)). Projects that are categorically excluded under certain conditions and do not require further approval by FHWA or further federal environmental documentation are listed below (commonly called “c” list CEs). Other actions, such as those listed in 23 CFR 771.117 (d), (commonly called “d” list CEs) may be classified as Documented CEs upon FHWA approval of the determinations made on the ITD Form 654 and accompanying documentation as described below. An action that would normally be classified as a “c” list CE would generally be classified as a documented (or “d” list) CE if any of the following circumstances apply:

- Any federal lands are affected or impacted.
- A federal Corps of Engineers Section 10 or Section 404 (Nationwide or Individual) permit is required.
- Substantial or uncertain impact may occur on properties protected by Section 4(f) of the DOT Act or Section 106 of the National Historic Preservation Act. In such cases a separate Section 4(f), Section 106 evaluation, or Cultural Resource Survey and

accompanying State Historic Preservation Officer (SHPO) concurrence is required. See [Sections 1700 and Section 1800](#).

- Possible impact on habitat or species protected under the Endangered Species Act (ESA). Supporting documentation is submitted to FWS for concurrence. The District Office identifies documented CE projects that have received FWS concurrence when submitting the project design to the HQ Environmental Section for approval.

The following actions meet the criteria for CEs in the CEQ regulation (Section 1508.4 [Exhibit 300-3](#)), and regulation 23 CFR 771.117(c) (“c” list) and do not normally require any further NEPA approvals by the FHWA.

- 1) Activities which do not involve or lead directly to construction,
- 2) Approval of utility installations along or across a transportation facility,
- 3) Construction of bicycle and pedestrian lanes, paths, and facilities,
- 4) Activities included in the State’s highway safety plan,
- 5) Transfer of federal lands when the subsequent action is not a FHWA action,
- 6) The installation of noise barriers or alterations to existing publicly-owned buildings to provide for noise reduction,
- 7) Landscaping,
- 8) Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur,
- 9) Emergency repairs under 23 U.S.C. 125,
- 10) Acquisition of scenic easements,
- 11) Determination of pay back for property previously acquired with federal-aid participation,
- 12) Improvements to existing rest areas and truck weigh stations,
- 13) Ridesharing activities,
- 14) Bus and rail car rehabilitation,
- 15) Alterations to facilities or vehicles to allow accessibility for elderly and handicapped persons,
- 16) Program administration, technical assistance, and operating assistance to transit authorities,
- 17) Purchase of vehicles by applicant where the use of these vehicles can be accommodated by existing facilities,
- 18) Railroad track and rail-bed maintenance and improvements when carried out within the existing highway right-of-way,
- 19) Purchase and installation or operation of maintenance equipment to be located within the transit facility, or
- 20) Promulgation of rules, regulations, and directives.

Note: Just because a project could somehow be fitted into one of these descriptions does not automatically lead to processing as a “c list” CE. For instance, calling a project that includes a major road widening and creation of a landscaped median strip a landscape project to qualify as a “c list” CE project under item 7, is not proper.

Projects qualifying as a Documented (or “d” list) Categorical Exclusion under 23 CFR 771.117 (d) (“d” list) may include:

- 1) Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes;
- 2) Highway safety or traffic operation improvements;
- 3) Bridge rehabilitation, reconstruction, or replacement; or the construction of grade separation to replace existing at-grade railroad crossings,

- 4) Transportation corridor fringe parking;
- 5) Construction of new truck weigh stations or rest areas;
- 6) Approvals for disposal of excess right-of-way or joint or limited use of right-of-way;
- 7) Approvals for changes in access;
- 8) Construction of new bus storage;
- 9) Rehabilitation or reconstruction of existing rail and bus buildings;
- 10) Construction of bus transfer facilities;
- 11) Construction of rail storage and maintenance facilities; or
- 12) Acquisition of land for hardship or protective purposes.

Any of these projects may be classified as a Categorical Exclusion only after FHWA approval. These actions require that specific documentation be submitted to the FHWA to verify that specific conditions have been met to satisfy the requirements for a CE. Any project which would have significant impacts, or potential to have significant impacts, does not qualify for processing as a Categorical Exclusion.

330.01.01 Programmatic (d). ITD and FHWA have an agreement for processing CE actions that do not fall under the 23 CFR 771.117 (c) classification because they involve construction but they are of such low impact that they do not require FHWA review. These are covered under the Programmatic Agreement Between Federal Highway Administration and Idaho Transportation Department Regarding NEPA Categorical Exclusion Documents for Minor Projects of May 21003. These projects are processed the same as (c) list projects. (*See Exhibit 300-6*)

330.02 Public Notice. *There are no public notice or hearing requirements for CEs.* FHWA may call for a hearing if the need is warranted and in that case, standard hearing procedures are followed. ITD often seeks input from the public and provides information through open houses, public information meetings and other formats less formalized than public hearings. These vary dependant on factors such as the nature, location and size of the project. Refer to the ITD Guidebook to Public Involvement for assistance in planning appropriate types and amount of public involvement. Prior to construction, news releases and other appropriate public contact should begin and continue as needed during the construction period.

SECTION 340.0 – DOCUMENTS AND PROCEDURES FOR CLASS III (EA) PROJECTS

All EA documentation must comply with the requirements of NEPA and implementing regulations (CEQ 40 CFR 1501-1508 and FHWA 23 CFR 771.119 - 121). FHWA must approve the project Purpose and Need statement prior to alternatives being developed or proceeding with environmental analysis.

340.01 Overview of NEPA Environmental Assessments (EA).

- Any ITD EA or EIS project that involves federal funding, federal lands, or federal permits must comply with the NEPA procedures listed below and described in detail in this section:
- Prepare the Environmental Assessment (EA) and Section 4(f) Evaluation if required (see [Exhibit 300-1](#) and [Section 1720.02](#)).
- Publish a notice of availability and/or public hearing notice.
- Review and respond to comments and incorporate into Finding of No Significant Impact (FONSI) if applicable. Otherwise, prepare a Notice of Intent (NOI) for an Environmental

Impact Statement. The FONSI includes the Final 4(f) Evaluation, unless there is a programmatic 4(f); then a final 4(f) is not required.

- Submit to FHWA with request for a final environmental determination (typically a Finding of No Significant Impact, unless significant environmental impacts are found).
- Notify agencies that a final environmental determination has been made and is available.

340.02 Environmental Assessment and Section 4(f) Evaluation. The District/Consultant prepares a EA as shown in [Exhibit 300-1](#). Include an area map, vicinity map, site plan, photogrammetric maps (to depict the environmental setting), summaries of discipline reports, and any agency coordination letters such as endangered species listings, prime and unique farmland determinations, Section 106 tribal consultation, and archaeological/historic reports. If the project involves Section 4(f) lands, a separate evaluation is required and is included as a separate section in the EA. See [Section 370](#) and [Section 1720.02](#) for details.

The discipline reports themselves are attached to the Environmental Evaluation/Document forwarded to FHWA. A concise and complete summary of the report, its methodology and conclusions is included in the body text of the EE/EA to be submitted to FHWA.

A public involvement plan should be prepared for all projects in which an EA or EIS is required. Refer to the ITD Guidebook to Public Involvement or Design Manual for information and assistance in developing the public involvement plan. In general, public involvement should begin in the early stages of the project and continue through the life of the project.

340.02.01 Federal Agency Review. The preliminary EA and Section 4(f) evaluation are submitted to the FHWA for review and comment. If the reviewers determine that the proposal may have significant environmental impacts, the proposal is reevaluated to determine whether the significant impacts can be appropriately mitigated or eliminated. If the impacts cannot be eliminated, an EIS is required. If no significant impacts are found, the District Office makes any needed revisions and requests the FHWA approval to publish a notice announcing the public availability of the EA. FHWA agreement is needed prior to publishing the documents and a 15 day period must elapse between publication of the document and the public hearing.

340.02.02 Public Review and Comment. The public review and comment period for an EA is a minimum of 30 days. If a Section 4(f) evaluation is included, a minimum of 45 days is required although the additional time is required for review by DOI legal staff, not public review. FHWA legal staff requires a minimum of 30 days for legal sufficiency review. Since the comment period (for scoping and hearings) remains open under NEPA until the FONSI or ROD is issued by the federal agency, it is ITD practice to use the term “comments are requested by (fill in date)” in advertisements and notices to ensure timely receipt of comments for meaningful consideration.

After the comment expiration date, ITD has the option to extend the comment period if requested by the public or another agency, and it is judged reasonable for meaningful submittal of project comments. Following notification only to the requesting party, no further public advertisement of the comment period extension is required. ITD practice is to advertise the availability of the EA and the public hearing, though there is no requirement to hold a hearing for EA documents. The document must be made available for public inspection at the District Office of ITD and the office of FHWA. The document should also be made available to the public at public libraries or other such locations where the public can review it at times other than transportation agency office hours. Use the project involvement plan to assist in determining appropriate types and timing of public involvement.

(1) Notice of Availability

The District publishes a notice in the newspaper of general circulation in the area where the project is located. The intent is to publish the notice in a paper with the most circulation in the area of the project. At times this might mean that the notice should be published in the local newspaper as well as the regional paper. For instance, a project in McCall may need to be published in the local paper as well as the Idaho Statesman since there are many Boise area residents with second homes in McCall.

The notice, similar to a public hearing notice, advises the public that the EA is available for review and comment and where the document may be obtained. It should briefly describe the proposed action and impacts identified in the assessment. The notice of the EA's availability must be sent to affected units of federal, state, tribal, and local government.

(2) Public Hearing

For Class I and Class III (EA and EIS) projects the Environmental Document must be approved by FHWA before proceeding to a hearing.

In case of a 4(f) impact

Approval from FHWA includes a Legal Sufficiency review for the 4(f) documents. The 4(f) documents will be forwarded by the FHWA to their legal department for a determination if the documentation is sufficient to meet current legal standards. That clearance will require forty five days and that time should be anticipated in planning for the public hearing.

The public hearing notice requirements for public hearings follow the format and time schedule outlines in **Appendix F** of the Public Involvement Manual. The notice of the public hearing published in local newspapers announces the availability of the EA and where it can be obtained or reviewed. The public should be given a reasonable opportunity to review the document and comment on it. It should be made available for the public to review, including beyond normal ITD office hours. Providing copies at public libraries and other public locations should be included in providing this reasonable opportunity. It may also be appropriate to provide copies of discipline reports on which the EA is based.

(3) Document Distribution

The EA is distributed to any federal, state, or local agency or tribe known to have interest or special expertise in the areas addressed in the EA or that may be substantially affected by the project impact. For example, if Section 4(f) property is involved, the document is sent by the FHWA division office to the Department of the Interior and to the agency with jurisdiction over the property unless the action is covered by one of the 4(f) Programmatic exemptions. The U.S. Fish and Wildlife Service and NOAA Fisheries should be included in the distribution for projects that may affect wetlands or endangered species or critical habitat. If an individual Section 404, Section 10, or Section 9 (Coast Guard) permit is required, a copy of the EA should be sent to the agency. See also FHWA's Technical Advisory T 6640.8A. (*Exhibit 300-4*) or <http://www.fhwa.dot.gov/legsregs/directives/techadvs/t664008a.htm>.

340.03 Environmental Assessment. (With or Without Section 4(f) Evaluation) At the conclusion of the public review period, the District Environmental Planner evaluates all comments received, including comments from public hearings, meetings, and open houses. The District Environmental Planner responds to the comments and revises the document as necessary, referencing changes in the EA resulting from the comments received during the public hearing

process, and responding to those comments. The ITD HQ Environmental Manager reviews the Final EA, and requests a FONSI by letter to FHWA.

If the public review reveals significant impacts (or controversy), the federal agency may determine that an EIS is necessary (See [Section 350.00](#)). After FHWA issues the FONSI, the signed FONSI is returned to the ITD HQ Environmental Section with a letter that a FONSI is available from the federal lead agency. HQ will then forward the letter to the appropriate District.

340.04 Issue FONSI (NEPA).

340.04.01 Contents.

Typical contents of a FONSI include:

- Cover (include Summary Statement of No Significant Impacts)
- Title Sheet (use EIS format– see [Exhibit 300-4](#))
- Description of Proposed Action (recap from the EA)
- EA Coordination and Comments (list EA issue date, hearing date, and summary of comments). FONSI contents must include a statement that none of the individual environmental findings in the EA result in a significant impact. The FONSI must also include a statement that the cumulative environmental findings in the EA do not result in significant impact.
- Supportive Environmental Findings such as:
 - BA Findings
 - Farmland Finding
 - Wetland Finding
 - Flood Plain Finding
 - Environmental Justice Statement(Minority and Low-Income Populations)
- Attachments (indicate that the EA and EA/design hearing transcript are incorporated by reference into this FONSI. Indicate where copies of both documents can be obtained).
 - Errata to EA and Hearing Transcript
 - Notice of Availability of FONSI and Notice of Adoption of EA with Publication
 - Listing (text of notice and newspaper listing for notice)
 - FONSI distribution list
 - Mitigation commitment list
 - Written comments with responses
 - Hearing comments with responses

For guidance on the form and process for a NEPA FONSI, see FHWA Technical Advisory T6640.08A. ([Exhibit 300-4](#)) and also <http://www.fhwa.dot.gov/>. Click on Legislation and Regulations, then FHWA Directives and Policy Memorandums, then FHWA Technical Advisories, then T6640.8A.

340.04.02 Distribution. Federal regulations do not require formal distribution of a FONSI. Agencies must send a notice of the FONSI's availability to federal, state, and local government agencies likely to have an interest in the project and to all participating and cooperating agencies. Technical Advisory T6640.8A encourages the lead agency to inform commenting agencies (or those requesting to be informed) of the status of the project, the disposition of their comments and to provide them with a copy of the FONSI. ITD practice is to circulate the FONSI in the same manner as EAs and EISs. This distribution normally includes, but is not limited to:

- Any federal agency that has jurisdiction by law or special expertise in any environmental
- impact involved.

- Any appropriate federal, state, or local agency authorized to develop and enforce environmental standards.
- Any interested tribe.
- Any person, organization, or agency that requests a copy of the document.
- Public officials, private interest groups, and members of the public having or expressing an interest in the proposed project, for example by submitting a comment on the EA.
- All co-operating and participant agencies.

340.04.03 Additional Environmental Documentation. If public comments or hearing testimony require additional environmental documentation is needed to support the FONSI, the District requests the preparation of discipline reports and coordinates the processing of the reports to the appropriate agencies. The environmental documentation needed to support the FONSI must be prepared before the FONSI is issued. Copies are also sent to the ITD HQ Environmental Manager and are forwarded to FHWA to be included in the FONSI request and package..

340.04.04 Public Review and Comment. Other agencies and the public are given an opportunity to comment through the public notice process. A criterion for determining when a comment period is required is stated in ITD's public notice procedures, described in The ITD Guidebook to Public Involvement and includes:

- Publishing a notice in one or more newspapers of general circulation in the area where the project is located.
- Sending a copy of the FONSI to any agency, organization, or member of the public requesting information, in writing, concerning the project.

The FONSI is also sent for comment to any local agency or political subdivision that may be affected by the project. Agencies with jurisdiction and any interest also receive a copy for comment.

340.05 Mitigation Commitments. When NEPA proposals involve mitigation commitments, these commitments are recorded and completed as part of the project design file, as required. Typically the record is the Mitigation Plan that is developed during the preparation of the final Environmental Evaluation. The Mitigation Plan consists of all proposed mitigation measures, commitments made to resource agencies or other agencies with permitting authority, and any other mitigation commitment made on behalf of the project. The District Environmental Planner provides a mitigation plan to the District Project Development Engineer and the District Engineer and assists in listing commitments on the Environmental Monitoring Report (See ITD 2802 on the FormFinder). The District Environmental Planner also reviews the Mitigation Plan and the Final Design to determine if the mitigation commitments are included in the plans, Standard or Special Provisions and/or Contractors Notes.

Once an environmental commitment is made and accepted by FHWA, it cannot be changed or modified without FHWA approval. In the event any mitigation measure described in the approved environmental document is not to be implemented as described in the document (for whatever reason), the proposed change must be submitted to FHW for review and approval.

340.06 Proceed with Design and Plans, Specifications, and Estimates. After all environmental documents and the project design file have been approved the project may advance to right of way acquisition and preparation of the final design (plans, specifications, and estimate or PS&E). At this point, the District Environmental Planner should check to make certain the Mitigation Items are included in the contract going out for bid.

SECTION 350.00 - DOCUMENTS AND PROCEDURES FOR CLASS I PROJECTS

This section is written primarily for preparation of an EIS but the guidance on document preparation generally applies to preparation of EA's as well.

For projects requiring federal funds or federal permits, all EIS documentation must comply with the requirements of NEPA and implementing regulations (CEQ 40 CFR 1501-1508 and FHWA 23 CFR 771.123 - 125). On projects where one or more federal agencies have funding or permitting responsibility, one or more federal agencies may be lead agencies. Where Federal Highway funding is used, FHWA is the lead agency although other federal agencies may be involved as cooperating agencies. Projects jointly developed with other federal agencies are prepared to comply with that agency's regulations and guidelines. For further guidance on preparing EISs, see FHWA Technical Advisory T6640.8A. (See [Exhibit 300-4](#)).

NEPA Overview

An ITD Federal Aid project that anticipates substantial environmental, social, or economic impacts, and involves federal funding, federal lands, or federal permits, must comply with NEPA process and procedures for public involvement. This process requires a "systematic, interdisciplinary approach" for dealing with the permitting agencies. The requirement is met by ITD within the NEPA Coordination Process. The NEPA Coordination Process replaces (NCP) the Merger Process previously agreed to and utilized for agency coordination. This section will be updated as the changes occur. An overview of the current Merger Process and procedures is outlined below to provide a model for interagency coordination. In general, these procedures should be followed until a new process is approved.

- * Hold confirmation meeting (i.e., meet with FHWA, ITD and FHWA to determine if merger is the best process for the project)
- *Establish interdisciplinary approach and establish purpose and need (merger meeting)
- Publish Notice of Intent
- Begin 4(f) clearance
- Conduct scoping process
- Develop and apply screening criteria to alternatives developed so far
- *Select alternatives to study in DEIS and process final study plan
- Begin discipline studies
- Prepare draft EIS
- Circulate DEIS and file with impacted resource agencies
- Hold EIS/location public hearing if required or desired
- *Select preferred alternative and prepare Final EIS
- Issue Final EIS and file with resource agencies
- Prepare and issue Record of Decision (NEPA)

*Indicates appropriate meeting and/or coordination points with the relevant agencies. The basic intent is to meet the requirements of NEPA to establish an interdisciplinary approach and work with all of those agencies and stakeholders directly impacted by the project.

350.01 Notices of Intent Project Initiation and Determination of Significance and Scoping.

350.01.01 Notice of Intent (NOI). If an EIS is required for a project involving federal funds or federal permits, the District Environmental Planner submits a Notice of Intent (NOI) to the federal lead agency for publication in the *Federal Register*. The NOI advises federal agencies that

an EIS will be prepared. The contents and guidelines for the notice are found in FHWA Technical Advisory T6640.8A. ([Exhibit 300-4](#))

350.01.02 Project Initiation

To initiate the environmental review process for a transportation project using the Section 6002 process, SAFETEA-LU requires that the project sponsor notify USDOT about the type of work, termini, length, and general location of the proposed project. The notification must also provide a list of any other Federal approvals (e.g., [Section 404](#) permits) anticipated to be necessary for the proposed project, to the extent that such approvals are known at the outset. The notice also should indicate the timeframe within which the environmental review process should be started. The information required to initiate the environmental review process may be generated by the metropolitan or statewide planning processes, or by other means such as corridor planning studies, traffic studies, or congestion or pavement management systems. For more information on using products of the planning process, see [Question 35](#) and [Appendix D](#). The notification can be provided in the form of a letter or through a programmatic document (discussed below) such as the State Transportation Improvement Program (STIP) that meets the informational requirements in Section 6002.

If a notification letter is used, it should be signed or emailed by the official authorized to sign EISs for the sponsoring agency or that official's authorized delegate, and should be sent to the FHWA Division Administrator or FTA Regional Administrator. States may use existing procedures that provide the project initiation information required by SAFETEA-LU if the appropriate official originates the notice. For example, a draft Notice of Intent under 40 CFR 1501.7 and 1508.22, sent to the Division or Regional Administrator by the appropriate official of the sponsoring agency, may serve as the initiation notice under Section 6002 so long as the information required by Section 6002 is contained in the draft Notice of Intent.

Notices of initiation also may be consolidated (batched) into a multi-project notice of initiation if the lead agencies determine that the resources of the lead agencies and the timing for the projects support such practice.

States may propose, and the USDOT may accept, programmatic approaches to satisfying the project initiation requirements of SAFETEA-LU. In any such proposal, the State must provide to USDOT in a properly approved document: (a) the information about each project (i.e., type of work, termini, length, general location, and the list of other Federal approvals) required for project initiation; and (b) an indication of exactly when the environmental review process for each project will commence, i.e., when the staff, consultant services, financial resources, and leadership attention necessary to move the project's environmental review process forward will be committed to that end. For example, a State that updates its STIP annually may propose to use it as the vehicle for project initiation by including in the STIP the project initiation information and the dates that each draft Notice of Intent will be delivered to USDOT.

350.02 Scoping For EIS Projects. The scoping process identifies the types of actions to be completed, the range of alternatives and impacts and the significant impacts to be addressed in the Environmental Document. Scoping allows the agency to identify potential environmental concerns or controversy early in the project development. NEPA rules require scoping during preparation of the draft EIS (40 CFR 1501.7, 23 CFR 771.123). NEPA does not require scoping

for a supplemental EIS, however, the co-lead agencies can decide to hold an open house early in the supplemental EIS process that serves the same purpose.

Scoping information may come from agency consultations, public comments, the analyst's own experience and knowledge, underlying studies support of the project proposal, expert opinion or other NEPA analyses.

Scoping is a process that must involve the public and that is designed to discover the range of issues that may or are likely to impact the project. Obviously this process must occur at the earliest possible point in the project development process in order to complete a coherent plan for the project. As listed in 40 CFR 1501.7 (a),(b) (see [Exhibit 300-2](#)), the objectives of scoping are as follows:

- Invite Other Agencies to Participate
- Determine Scope and Other Substantial or Significant Issues
- Identify and Eliminate Insignificant Issues
- Identify the Relevant Environmental Document to be Prepared
- Identify Review and Consultation Elements
- Adopt Measures to Correlate Environmental Analysis and Scoping
- Allocate Assignments to Outside Agencies
- Set Document Length Limit and Time Constraints

350.02.01 Types of Actions to be Evaluated.

Some actions may be interrelated and will then have to be included in the Environmental analysis. The interrelationship can be classified as “similar” actions, “connected” actions and “cumulative” actions.

- Similar actions are those that, when viewed with other reasonably foreseeable proposed actions, have similarities that provide a basis for evaluating their environmental consequences together, but are not necessarily connected.
- Connected actions are closely related and described as: automatically triggering other actions; cannot proceed without other actions; or are interdependent parts of a larger action that justifies their existence.
- Cumulative actions cause or contribute to substantial or significant impacts when reviewed with other actions.

350.02.02 Types of Alternatives to be Evaluated. All alternatives meeting the Purpose and Need and that can reasonably be constructed, regardless of cost, should be evaluated. Cost may be one of the factors for eliminating an alternative but it cannot be the only factor unless it is the only factor that differentiates two alternatives with the same or similar impacts and that meet the Purpose and Need.

The No Build Alternative must always be considered. In many evaluations the no build alternative is listed as having no cost. This is not generally true. Loss of time due to congestion, economic loss due to accidents or inability to get customers to markets and/or increased maintenance, etc., should be considered as part of the cost of “doing nothing”, if the proposed project would alleviate that cost.

350.02.03 Types of Impacts to be Evaluated. Three types of impacts must be evaluated: direct impacts, indirect impacts and cumulative impacts. This covers all impacts but scoping should eliminate those impacts that are obviously inconsequential, even cumulatively. Scoping should

also determine impacts that may or may not be substantial or significant but that cannot be quantified without environmental analysis.

350.03 Draft Environmental Impact Statement (DEIS). The DEIS is the initial project report. It identifies the alternative actions and presents an analysis of their relative impacts on the environment. It may identify a recommended course of action if one alternative is clearly preferred. The DEIS summarizes the early coordination and scoping process, identifies key issues, and presents pertinent information obtained through these efforts.

The District Office prepares the preliminary DEIS using discipline reports and/or other data supplied by Resource Agencies, IDT, consultants and other sources, and begins a commitment file and administrative record.

The District office coordinates reviews by various interested parties and appropriate federal agencies. Review comments are returned to the District Office for revision of the preliminary DEIS. After reviewing changes made in response to comments on the preliminary DEIS, the District Office submits the DEIS to the ITD Headquarters Environmental Section Manager. Once the Section Manager is satisfied with the DEIS, he approves the DEIS by signing the title page, and then obtains concurrence for circulation from each appropriate federal official listed on the title page. The concurrence is acknowledged by the signature of that official on the title page. The signed title page and approval to print the DEIS are returned to the District Office and the document is printed and made available for public review as described below.

350.04 Notice of Availability/Public Hearing Notice. The District Office submits the DEIS for placement of a Notice of Availability in the *Federal Register* (see 40 CFR 1506.10). A comment period of not less than 45 days begins upon publication of the notice in the *Federal Register*.

ITD is required to use the public notice procedures detailed in the Public Information Manual to inform the public that the DEIS is available and that a public hearing may be requested. If a hearing is required to fulfill any legal requirements, include information on the availability of the DEIS in the notice.

The hearing date is a minimum of 15 days after publication of the availability of the DEIS. The end of the comment period is 30 days following the date of the public hearing.

Public notice requirements include:

- Publishing the notice in a newspaper of general circulation in the county, city, or general geographic area where the proposal is located.
 - The publication of notice may also have to be in a local paper if the project is some distance from the area paper of general circulation.
- Notifying agencies with jurisdiction, affected tribes, and groups known to be interested in the proposal or who have commented in writing about the proposal.
- Contacting news media and placing notices in district, neighborhood, or ethnic periodicals.
- Giving public notice at least 30 days in advance of a public hearing. The environmental document continues to be available for 15 days after the hearing date.

The DEIS Notice of Availability contains the following:

- Location of project.

- Brief description.
- Information on wetlands, floodplains, Section 4(f) lands, or endangered species if applicable.
- Purpose of EIS.
- Responsible agency.
- Federal lead agency (NEPA).
- Where documents are available.
- Where to send comments.
- “Comments are requested by (date).”
- Date, time, and location of public hearing or invitation to request a public hearing.
- The ADA statement from 300.02(4)(a).

350.05 Public Hearing. If a need for a public hearing can be anticipated, early planning for a hearing can save time. Instead of waiting until the end of the comment period to start the procedure for the public hearing, begin as soon as the need is verified. Public hearings are required for all NEPA EIS projects and for other NEPA projects if falling under the following ITD policy:

- There are identified environmental issues (e.g. heavy traffic volumes on local streets, visual quality), which should be discussed in a public forum.
- ITD has a substantial interest in holding a hearing to further public comment and involvement.
- Substantial environmental controversy is associated with the proposed action.
- An agency (FHWA) with jurisdiction over the proposal (permitting agency) requests a hearing. As a minimum, a notice of opportunity for a hearing is published in newspapers.

Or if falling under 23 CFR 771.111(h)(2)(iii) for:

- Projects which require significant amounts of right-of-way
- Project with substantial changes to layout or functions of connecting roads or facilities being improved
- Projects with substantial adverse impact on abutting property
- Projects with significant social, economic, environmental or other effect
- Or any time the FHWA deems a public hearing is in the public interest.

Where hearings are not required by statute, informational meetings may serve as a useful forum for public involvement in the environmental process.

Public Hearing Sequence

- Approval of content of the document by FHWA
- Distribute the document to the resource agencies and interested stakeholders
- Publish notice of availability of the document and the public hearing. This must be done at least 15 days prior to the hearing. Hearing room must meet public access requirements. See tri message section 300.02(4)
- Hold hearing and gather comments. Public has 30 days to generate comments (45 days if 4(f) is involved).
- Revise document to incorporate comments and responses
- Obtain FHWA agreement on revised document
- Republish notice of document availability for public review for another 30 day period
- If no new issues, request ROD or FONSI.

350.06 Circulation of DEIS. Circulation of Draft and Final EISs is required under federal regulations (40 CFR 1502.19). Generally, all copies sent out during the circulation of the DEIS are free of charge. After initial circulation, a fee may be charged which is not more than the cost of printing. See [Section 320.05](#). The District Office must distribute NEPA DEIS no later than the time the document is filed with the USEPA in accordance with 40 CFR 1506.9. Required distribution is as follows:

- Federal or other agencies with jurisdiction or environmental expertise on the project.
- Tribes (affected by project, both “usual and accustomed areas” and fishery resources).
- Cities and counties in which adverse environmental impacts identified in the EIS may occur, if the proposal were implemented.
- Local agencies of political subdivisions whose public services would be changed as a result of implementation of the proposal (e.g., public works, parks, planning, schools, water or sewer s).
- The applicable local, area wide, or District agency, if any, that has been designated under federal law to conduct intergovernmental review and coordinate federal activities with state or local planning (e.g., Clean Air Agency, ports, Indian Fisheries Commission, transit authorities).
- Media (legal and local newspapers).
- Public officials, private interest groups, and members of the public having or expressing an interest in the proposed project or DEIS.

The latter category normally includes:

- Each private interest group, but not each member.
- Public officials, private interest groups, or individuals who provided significant input during meetings and/or hearings.
- Individuals who have shown interest by attending several meetings, even though they did not provide specific input.
- Any individual who has shown interest by visiting an FHWA, ITD, or local agency office for information on the proposed project or by requesting a copy of the DEIS from the lead agency.

The DEIS is also distributed to:

- ITD Project Development Office
- Transportation Commission
- Attorney General
- State Library

When visual impacts are a significant issue, the DEIS should be circulated to officially designated local arts councils and other organizations interested in design, art, and architecture.

350.07 Final Environmental Impact Statement (FEIS).

350.07.01 Preliminary FEIS. After the public comment period, public and agency comments are evaluated to determine whether:

- Additional studies are required to respond to those comments.

- Impacts of the preferred alternative fall within an envelope of impacts for alternatives described in the DEIS (especially if a modified or hybrid alternative is selected as preferred).
- A supplemental EIS is required to provide additional or missing information prior to issuing a Final EIS.

The FEIS contains FHWA and ITD final recommendations or preferred alternative, lists or summarizes by group the comments received on the DEIS, summarizes citizen involvement, and describes procedures required to ensure that mitigation measures are implemented. The FEIS also documents compliance with environmental laws and Executive Orders.

If a DEIS adequately identifies and quantifies the environmental impacts of all reasonable alternatives, evaluate the next step by reviewing the FHWA Technical Advisory T 6640.8A ([Exhibit 300-4](#)) which gives three options for preparing a Final EIS: traditional approach, condensed Final EIS, and abbreviated Final EIS.

ITD practice is to produce reader friendly documents with conclusions in one document. In the traditional approach, preferred by FHWA, the FEIS incorporates the DEIS (essentially in its entirety) with changes made as appropriate throughout the document. Changes may reflect the selection of an alternative, modifications to the project, updated information on the affected environment, changes in the assessment of impacts, selection of mitigation measures, and wetland and floodplain findings. These are the results of coordination, comments received on the DEIS, and responses to these comments. Since so much information is carried over from the draft to the final EIS, important changes are sometimes difficult for the reader to identify. These can be highlighted in an introductory section or attached summary.

350.07.02 Review and Publication of FEIS. The District Office reviews the preliminary FEIS and submits the document for review by the Attorney General's office (on controversial projects) and the appropriate lead federal and state agencies.

After reviewing the preliminary FEIS and incorporating comments, the District Office prepares a draft Record of Decision (ROD) and submits it to the HQ Environmental Section Office (ESO) along with the FEIS. The ESO reviews the FEIS, and the ITD Headquarters Environmental Section Manager signs the title page. The federal agency approval to print is demonstrated by signature on the title page, possibly with a short list of minor changes to make prior to printing. The FEIS is then submitted for publication of the FEIS Notice of Availability in the *Federal Register*.

350.07.03 Distribution. After approval, the District Office distributes copies of the FEIS as follows (40 CFR 1502.19(d). Federal agencies (do not list co-lead agencies)

- Tribes (affected by project, both "usual and accustomed areas" and fishery resources)
- State agencies (do not list co-lead agencies)
- District agencies (e.g., Clean Air Authority, transit, Indian Fisheries Commissions)
- County (public works,)
- Local agencies (public works, parks, schools, water/sewer)
- Libraries
- Media (legal and local newspapers)
- Organizations and individuals who have expressed interest
- ESO, Attorney General, and State Library

When filed with USEPA, the final EIS shall be available for public review at the offices of ITD and FHWA. The final EIS may also be sent to the Federal Register for availability to the general public. A copy should also be made available for public review at institutions such as local government offices, libraries and schools, as appropriate.

350.07.04 Notice of Availability. ITD notifies the public in a similar manner as for the DEIS, except there is no official comment period. Comments received during the 30 days following the issue of the FEIS will be noted and responded to in the Record of Decision and made available to the public upon request. If the agency receives petitions from a specific group or organization, a notice or EIS may be sent to the group but not to each petitioner.

350.08 Record of Decision

350.08.01 Record of Decision (ROD). The draft Record of Decision (ROD), prepared by the District Office, accompanies the FEIS through the review and approval process. The ROD explains the reasons for the project decision, summarizes any mitigation measures that will be incorporated in the project, and documents any required Section 4(f) approval (40 CFR 1505.2). Guidance on preparing and distributing the ROD is in FHWA's Technical Advisory T6640.8A. ([Exhibit 300-4](#))

The ROD is intended by the CEQ to be an environmental document (CEQ 40 Questions, #34a). Therefore, it must be made available to the public through appropriate public notice as required by 40 CFR 1506.6(b). However, there is no specific requirement for publication of the ROD itself, either in the *Federal Register* or elsewhere. It is ITD practice to publish a Notice of Availability in the newspapers previously used for project notices.

Under NEPA, FHWA or other federal lead agency issues the final ROD. The District Office obtains the approved ROD from the federal agency and circulates it to the District Project Manager or whatever internal entity requires the clearance so that the project may advance right of way acquisition and final design for preparation of PS&E.

The following format is used in preparing a ROD:

- **Decision** – Identify the selected alternative. Refer to the FEIS to avoid repetition.
- **Alternatives considered** – Briefly describe each alternative (with reference to the FEIS, as above), explain and discuss the balancing of values underlying the decision. Values for economic, environmental, safety, traffic service, community planning, and other decision factors may vary in relative importance. Identify each significant value and the reasons why some values were considered more important than others. The ROD should reflect the manner in which these values were considered in arriving at the decision. Identify the environmentally preferred alternative or alternatives. In addition, if Section 4(f) property is used, summarize the Section 4(f) evaluation.
- **Measures to minimize harm** – Describe all measures to minimize environmental harm that have been adopted for the proposed action. State whether all practicable measures to minimize environmental harm have been incorporated into the decision, and if not, why. List each impact area that was considered in the DEIS & EIS and state the level of impact after mitigation.
- **Monitoring or enforcement program** – Describe any monitoring or enforcement program that has been adopted for the specific mitigation measures, as outlined in the FEIS.

- **Mitigation Plan** – Include an item-by-item list of commitments and mitigation measures from the commitment file. The list serves as a ready reference for the design, construction, and maintenance of the project

350.09 Proceed with Design. After all environmental documents in the environmental and design stages have been approved and finalized; the project may advance to right of way acquisition and preparation of the PS&E.

SECTION 360.00 – PREPARATION OF AN EIS

The primary purpose of an environmental impact statement is to ensure that the intent of NEPA becomes an integral part of programs and actions of state and local governments. Agency officials use the EIS in conjunction with other relevant materials and considerations to plan actions and make decisions. The EIS is to provide an impartial discussion of significant environmental impacts and inform decision makers and the public of reasonable alternatives, including mitigation measures, which would avoid or minimize adverse impacts or enhance environmental quality.

The EIS process enables government agencies and interested citizens to review and comment on proposed government actions. The process is intended to assist the agencies and applicants to improve their plans and decisions, and to encourage the resolution of potential concerns or problems prior to issuing a final statement.

An EIS is not intended to prove there are no environmental impacts. NEPA allows environmental impacts as long as all reasonable efforts are made to avoid, minimize or mitigate the impacts. The EIS is issued to explain the impacts and what is being done to minimize those impacts.

See [*Exhibit 300-4*](#) (**FHWA Technical Guidance 6640.8A**) for sample NEPA EIS outlines and cover sheets.

360.01 Purpose and Need Statement. The purpose and need section is in many ways the most important section of an environmental impact statement. It explains to the public and decision makers that the expenditure of funds is necessary and worthwhile and that the priority the project is being given relative to other needed highway projects is warranted. In addition, although significant environmental impacts may result from the project, the purpose and need section should justify why impacts are acceptable based on the project's importance. It demonstrates problems that exist or will exist if a project is not implemented, and drives the process for alternative consideration, analysis, and selection of the preferred alternative. It should clearly demonstrate that a "need" exists and should define the "need" in terms understandable to the general public. Although the Purpose and Need must state explicitly why the project is needed, it must not be stated so narrowly that only one action can fulfill the need. That would predetermine the alternative and this determination cannot be made without the study and comparison of the various alternatives for a given project and agreement by the stakeholders in the project.

FHWA must approve the project Purpose and Need statement prior to alternatives being developed for the project or proceeding with the environmental analysis.

The "purpose" portion of the statement should not describe construction activities. This is a statement of broader scope. For instance, adding a lane to an existing alignment does not have

the “purpose” of laying a twelve-foot strip of pavement to an existing alignment. Instead, the purpose is to increase capacity, or aid traffic flow from point A to point B.

The “need” portion of the statement is also not a construction summary. Here the need for the example above may be to improve safety or improve traffic flow due to accident increases or to increase the level of service. It describes why the purpose has arisen. The construction details of the project are listed in the alternatives being considered to meet the need defined by the purpose. Various elements of purpose and need can be explored for any given project, including such concerns as mobility, safety, or economic development.

Additionally guidance for preparing Purpose and Need statements can be found on the FHWA website at <http://environment.fhwa.dot.gov/projdev/tdmneed.htm>

360.02 Alternatives to the Proposal. An environmental document includes a comparison of impacts for different alternatives. The document must evaluate all reasonable alternatives to the action and discuss why other alternatives that may have been considered were eliminated from detailed study. NEPA rules require that reasonable alternatives include actions that could feasibly attain or approximate the objectives of a proposal, but at a lower environmental cost or decreased level of environmental degradation.

360.02.01 Typical Alternatives.

Alternatives normally include the following:

- The no-action alternative, including routine maintenance and repair (such as safety improvements) that are part of routine operation of an existing roadway, and continued operation of the existing roadway system. This alternative does not include improvements that would increase capacity through widening an existing structure or roadway segment, or change the footprint of the structure or roadway prism. The consequences of the no-action alternative must be considered. The no-action alternative establishes a baseline condition for comparison with the other alternatives, which can be considered in order to fulfill the purpose of the project.
- Alternatives to improve the existing facility, including resurfacing, restoration, and rehabilitation, high occupancy vehicle (HOV) lanes, park and ride facilities, and other minor improvements.
- Multi-modal alternatives, including public transit, rail, water, and air transportation, or other modes of transportation dictated by the characteristics of the study area. These may be under the jurisdiction of other lead agencies and require early coordination.
- Alternative routes and/or locations.
- A combination of the above alternatives.

360.02.02 NEPA Criteria. Identifying and studying alternatives to a proposal is the key to the NEPA process objective of finding transportation solutions that help preserve and protect the value of environmental and community resources. Evaluation of alternatives should present the proposed action and all the alternatives in comparative form, to define the issues and provide a clear basis for choice among the options. CEQ implementing regulations (40 CFR 1502.14) call the alternatives analysis section the “heart of the EIS,” and require that agencies shall:

- Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives that were eliminated from detailed study, briefly discuss the reasons for eliminating them.

- Devote substantial treatment to each alternative considered in detail, including the proposed action, so reviewers may evaluate their comparative merits.
- Include reasonable alternatives not within the jurisdiction of the lead agency.
- Include the alternative of no action.
- Identify the agency's preferred alternative or alternatives, in the draft EIS and identify such alternative in the final EIS unless another law prohibits the expression of such a preference.
- Include appropriate mitigation measures not already included in the proposed action or alternatives.

For FHWA guidance on alternatives, see: <http://www.fhwa.dot.gov/environment/alts.htm>

360.03 Organization of the EIS. ITD EISs follow the NEPA format. Because EIS formats are not mandatory, agencies sometimes prepare EISs with the more reader-friendly format. The radical reader friendly EIS format, such as the Washington DOT Seattle waterfront EIS, has not been widely adopted and has some legal sufficiency problems but it does have value as an example of use of graphics and the use of the question and answer format. Contact FHWA for discussion before considering use of this or a similar format.

A typical EIS is composed of a Purpose and Need Statement, a description of the Affected Environment, a Description of Alternatives and an Analysis of Impacts for each alternative.

Additional guidance concerning the organization and format of the EIS documents can be obtained from the following source: http://ceq.eh.doe.gov/nepa/regs/ceq/toc_ceq.htm Council on Environmental Quality (40 CFR Section 1502.10) – Recommended Format.

360.04 Elements of the Environment. [Exhibit 300-4](#) presents the elements of the environment to be considered under NEPA and other state and federal legislation. Guidance on analyzing each type of impact can be found in various sections of the Environmental Process Manual. In addition to NEPA requirements, Section 4(f) of the Department of Transportation Act applies to projects affecting publicly owned parks, recreation areas, wildlife and waterfowl refuges, and historic sites. Section 6(f) of the Land and Water Conservation Funds Act applies to conversion of outdoor recreation property acquired or developed with grant assistance from an Interagency Committee for Outdoor Recreation. For guidance on preparing Section 4(f) and Section 6(f) evaluations, see [Section 1700](#) & [Section 1800](#).

360.05 Affected Environment. CEQ regulations (40 CFR 1502.15; require EISs (the same is true for EAs) to succinctly describe the environment of the area(s) to be affected by the alternatives under consideration. Descriptions should be no longer than is necessary for the reader to understand the relative impacts of the alternatives. Data and analysis should be commensurate with the magnitude of the impact, with less important material summarized, consolidated, or simply referenced.

360.06 Analysis of Impacts. Under CEQ regulations (CFR 1502.16) the EIS discussion of impacts forms the scientific and analytical basis for comparisons of alternatives. The EIS must discuss impacts on the natural environment (air, water, land). As appropriate, the EIS must also discuss impacts on urban quality, historical and cultural resources, and the design of the built environment, including reuse and conservation potential of various alternatives and mitigation measures.

Impacts must be discussed for each alternative, and summarized in comparing the relative impacts of the alternatives including the proposal (CEQ 1502.14). For each alternative, the energy, natural and depletable resource requirements and conservation potential must be discussed.

The EIS should discuss in general terms the relationship of local short-term impacts, use of resources, maintenance and enhancement of long-term productivity, and the irreversible and irretrievable commitment of resources for the proposed action..

In addition, the EIS must describe possible conflicts between the proposed action and the objectives of federal, district, state, local and tribal land use plans, policies, and controls for the area affected by the project. NEPA requires analysis of direct, indirect, secondary, and cumulative impacts. For example, a direct impact would be that a new highway will result in filling a wetland; an indirect impact would be that the highway will encourage increased development because of improved access; a cumulative impact would be that increased runoff and contaminants from the highway would be added to the volume and level of contamination from other development around the wetland. For guidance on analysis of cumulative impacts, see [Section 2200](#). Impacts may be temporary, such as the short-term impacts associated with the construction phase of a project, or permanent, such as the long-term impact of increasing runoff and contamination from a widened highway. A summary of significant adverse impacts remaining after mitigation should follow the discussion of all impacts.

360.06.01 Direct Impacts. Direct impacts are easiest to conceptualize and identify. They are defined as effects that are caused by the proposed action or alternative and that occur at the same time of the action and the place of the action. Impacts, or effects, may be ecological, aesthetic, historic, cultural, economic, social, or health-related.

360.06.02 Indirect Impacts. Indirect impacts are caused by the action, but occur later in time or are at a further distance from the direct impacts of the project. Indirect impacts must be quantified if possible. When no reasonable assessment of indirect impacts can be made, the discipline report needs to identify the agency or agencies with jurisdiction and the specific regulations that would govern additional impacts caused by others. For example, construction of a new interchange does not cause additional development; however, it could facilitate such development.

In most cases, predicting the type, location, or timing of future development with any accuracy is impossible. It is therefore impractical to attempt to predict associated impacts. In such cases, address indirect impacts by identifying the regulatory authority (ies) (city, county, District, state, and/or federal) and the specific regulation(s), for example. Section 14.8 of Queen County's Comprehensive Plan.

Example: "Construction of Alternative A2 would result in eliminating approximately 2.3 acres of wetlands. Future development along the highway corridor could affect additional wetland areas. Any such development affecting wetlands would have to comply with Executive Order 11990, and Section 14.8 of Queen County's Comprehensive Land use Plan."

360.06.03 Cumulative Impacts. Cumulative impacts result from the incremental effect of the action when added to other past, present, and reasonably foreseeable future actions, regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over time. See [Section 2200](#) for detailed guidance on analyzing cumulative impacts.

360.07 Mitigation. The EIS also must discuss the proposed means to mitigate the identified environmental impacts. Proposed mitigation should be in addition to standard mitigation incorporated into all contracts. Under CEQ regulations (40 CFR 1508.20), mitigation may include:

- Avoiding the impact altogether
- Minimizing impacts by limiting the scale of the action
- Rectifying the impact by repairing, rehabilitating, or restoring the affected environment
- Reducing or eliminating the impact over time by preservation and maintenance operations
- Compensating for the impact by replacing or providing substitute resources or environments

For FHWA guidance on mitigation, see:

SECTION 370.00 – SECTION 4(F) AND SECTION 106 DOCUMENTS AND PROCEDURES

370.01 Section 4(f) Evaluation. When a project involves federal funding or permits and requires the use of any publicly owned land from a park, recreation area, wildlife or waterfowl refuge, or a cultural resource site on or eligible for the National Register of Historical Places, a Section 4(f) evaluation must be included in a separate section of the EA or EIS. A separate evaluation is prepared for each location within the project where the use of Section 4(f) property is being considered.

On all Federal aid projects FHWA will make determination of effect based on the information submitted by ITD. When the SHPO renders an opinion of the eligibility of a historical or cultural site and determines the effect on that resource (even if a “no effect” opinion is made) a 4(f) determination must be made by FHWA.

For details, see [Section 1800](#) which includes a 4(f) evaluation checklist. The non programmatic DEIS/Section 4(f) evaluation report must be circulated to the Secretary of the U.S. Department of the Interior for a 45-day review and comment period. Programmatic determinations are made at the FHWA division office. When appropriate, the U.S. Secretary of Housing and Urban development and the Secretary of Agriculture are also given an opportunity to review the proposal. When a Section 4(f) property is identified after the DEIS and/or FEIS has been processed, a separate Section 4(f) evaluation is prepared, circulated for comment, and finalized.

370.01.01 Contents (Draft & Final).

The Section 4(f) document should include the sections listed below.

- **Introduction** – Include the following statement: “**Federal regulations prohibit the FHWA from using land from a significant publicly owned park, recreation area, wildlife or waterfowl refuge, or from a significantly historical site. An exception occurs if the United States Secretary of Transportation makes a determination that (1) there is no feasible* and prudent** alternative to the use of such land; and (2) the proposed action includes all possible planning to minimize harm to the property.**”

*Feasible is defined as being possible to construct using sound engineering practices. It disregards limitations and cost.

**Prudent is defined as having no extraordinary cost, social, economic and environmental impacts or community disruption resulting from alternatives to avoid the 4(f) property.

- **Description of Action.** - Must be consistent with the Concept Report and FEIS.
- **Description of 4(f) Resource** – with figure(s) showing the entire resource.
- **Impacts on the Resource** – resulting from construction and/or operation.
- **Avoidance Alternatives** – can refer to and incorporate discussion from EIS.
- **Measures to Mitigate Harm** – Detailed discussions of mitigation measures in the EIS or EA may be referenced and appropriately summarized, rather than repeated.
- **Record of Coordination** – Include information on all agencies contacted. As applicable, include: Department of Interior, District Office of HUD, USDA, Forest Supervisor of the affected National Forest, SHPO, and local agency with jurisdiction. Include the National Park Service position on the land transfer if Section 6(f) land is impacted.
- **Conclusion (FEIS only)** – The conclusion that there are no feasible and prudent alternatives is not addressed at the draft Section 4(f) evaluation stage. Such conclusion is made only after the draft Section 4(f) evaluation has been circulated and coordinated and any identified issues adequately evaluated. With the FEIS include this concluding statement (Source: FHWA Technical Advisory T 6640.8A; : **“Based upon the above considerations, there is no feasible and prudent alternative to the use of land from the [identify Section 4(f) property] and the proposed action includes all possible planning to minimize harm to the [Section 4(f) property] resulting from such use.”**
Exhibit 300-4)

370.01.02 4(f) Inventory Questions. Avoiding impacts to possible 4(f) resources is a prime concern as alternatives are defined and design decisions are made. To document an inventory of existing recreational resources within the study area, request the owner agency for information on the areas of interest below.

- To provide a detailed map or drawing of sufficient scale to identify the resources on the property.
- What is the size (in acres or square feet) and location (maps, sketches) of the resources?
- What is the type or nature of the property (e.g., recreation, boat launch, historic, passive recreation)?
- What is the function of or what are available activities on the property (e.g., swimming, golfing, baseball, picnic table)?
- Describe and locate all existing and planned facilities on your map/sketch (tennis courts, baseball diamonds, picnic table, restroom, etc.). Are the parcels part of any existing or proposed State Recreation Master Plan?
- What is the access (pedestrian and vehicles), and usage (e.g., approximate number of users/visitors) in a time period of the owner's choice?
- Is there a relationship to other similarly used public lands in the vicinity?
- Are any applicable clauses affecting ownership, such as lease, easement, covenants, restrictions or conditions, including forfeiture?
- Are any unusual characteristics (flooding problems, terrain conditions, or other features) that either reduce or enhance the value of all or part of the property?
- Has the acquisition of land or any improvements to the resource used funds from the Land and Water Conservation Fund Act of 1965, administered by the Interagency Committee for Outdoor Recreation (IAC)?

370.01.03 Nationwide 4(f) Programmatic Evaluations. The following categories of impact on 4(f) resources can use a programmatic 4(f) evaluation if certain requirements are met:

- Minor involvement with public parks, recreation lands, and wildlife and waterfowl refuges.
- Minor involvement with historic sites.
- Use of historic bridges.
- Independent bikeway or walkway construction projects.

For details, see [Section 1800](#).

370.01.04 Final Section 4(f) Evaluation. When the selected alternative involves the use of Section 4(f) property, a Section 4(f) evaluation is included as a separate section in the FEIS/EA.

370.01.05 Circulation of Section 4(f) Evaluations. Normally, Section 4(f) evaluations are included in an EA or EIS and are circulated with the environmental document. If an EA is involved, the draft 4(f) evaluation is combined and issued with the EA. After the environmental hearing and comment period, the final 4(f) evaluation is combined and issued with the FONSI as a public document. If a Section 4(f) evaluation is processed separately, it should be distributed to officials having jurisdiction over the Section 4(f) property, and to the U.S. Department of Housing and Urban Development and the U.S. Department of Agriculture when these agencies have an interest in or jurisdiction over the affected Section 4(f) resource (23 CFR 771.135(i)).

370.02 Section 106 – Historic and Cultural Resources. Section 106 of the Historic Properties Act applies to transportation projects affecting a historic property listed on or eligible for listing on the National Historic Register. Special provisions apply to the use of historic bridges for highway projects. Under the Archeological Resources Protection Act, projects that involve the acquisition of right of way or excavation within existing right of way may need to be surveyed and inventoried to determine if cultural resources exist. (See [Section 1800](#) for details.)

Section 106 property may also meet the requirements for a Section 4(f) evaluation even if it has been determined that the proposed project will not have an adverse effect on the site. The proper term for no effect on 106 properties is “No Historic Properties Affected”.

The protection of a Section 106 National Historic Register historic resource is documented by preparing a Determination of Eligibility and Determination of Significance and Effect (ITD 1500A). Both documents are processed through the State Historic Preservation Officer (SHPO) for concurrence. Section 106 requires consultation with interested tribes, resource agencies and stakeholders at the beginning of the project and throughout the project.

SECTION 380.00 - RE-EVALUATIONS AND SUPPLEMENTAL DOCUMENTS

Once a ROD, FONSI, or CE designation has been approved for a project, the designation must be reviewed at various stages of project development to determine if the approved designation remains valid. Prior to any major action, such as approval of the Design Summary, PS&E, or right of way purchase, the environmental document or CE designation is reexamined to establish that it is still valid and to ensure that any mitigating measures or commitments are contained in the appropriate documents.

If a project meets the conditions listed below, a formal written reevaluation of the existing document or CE designation is required. For regulatory guidance, see 23 CFR 771.129 – 130 and FHWA Technical Advisory T6640.8A.(See [Exhibit 300-4](#))

380.01 Re-Evaluations. For NEPA implementing regulations on project reevaluations, see 23 CFR 771.129.

380.01.01 When Re-Evaluation Is Required. The District may reevaluate a CE, EA or EIS any time single or cumulative conditions have changed which might result in new or more severe environmental impacts. Reevaluation is required when any one of the following conditions exists:

- An acceptable FEIS has not been submitted to FHWA within three years from the date of DEIS circulation (23 CFR771.129(b)).
- Major steps to advance the project (such as approval to acquire a substantial portion of the right of way or approval of PS&E) have not occurred within three years from a NEPA Decision.
- Any substantive change is made to the proposed action. The district reevaluates the project by conducting appropriate environmental studies, or, if necessary for an EIS, by preparing an EA to assess the impacts of the changes.
- When any change in laws or regulations occur (such as listing a new species under ESA).
- When the wetland delineation may be older than three years.
- If the USFWS species list is more than 180 days old and contains a new listing, a new BA will need to be generated and concurrence incorporated into the approved document or CE.

380.01.02 Documentation. When any of the above conditions apply, the District Office prepares a written reevaluation to determine if a supplement to the DEIS or a new DEIS is required. The written reevaluation should address all current environmental requirements. The focus should be on changes to the project, its surroundings, environmental impacts, and/or any new issues identified since either the CE, FONSI, DEIS, or FEIS was issued. The results of any field reviews, additional studies, and/or coordination with other agencies should be included in the reevaluation.

ITD's 654 form provides an efficient method of documenting reevaluations. Any additional information required to explain changes in environmental impacts or to support a conclusion should be attached to this form. An optional method is to combine the form and any supplemental information into a single document.

380.01.03 Federal Review and Approval. The District Office forwards the re-evaluation to HQ for review and HQ will forward it for approval to FHWA. If, after reviewing the written re-evaluation, the FHWA or other federal lead agency concludes that a supplement to the DEIS or a new DEIS is not required, the decision should be appropriately documented and included in the project file. If the next major step in the process is preparation of a FEIS, the FEIS may be used to document the decision. The conclusions reached and any supporting information should be briefly summarized in the summary section of the FEIS. Public involvement is not part of the reevaluation process.

380.01.04 Limits of Project Reevaluation. For projects scheduled for completion in one phase, the reevaluation will include a review of the entire project. All aspects of the original Environmental Evaluation will be open to review as well as any modifications or additions to the original approved project plan.

380.01.05 Verifications

When a NEPA document or CE approval is to be included with an ITD 2101 Form to obtain Federal funding and the environmental clearance is more than 60 days old, a verification of no change is required. This verification can be as simple as an email statement from the Project Manager or the Environmental Planner in the district. The verification will state that there is no change in the project as approved and the approval of xx date is still valid. The verification is sent to the HQ Environmental Section Manager and he will forward a copy to FHWA in conjunction with the Form 2102.

Multi phase projects will be reevaluated according to the phases completed. For instance, a three phase project, with one phase completed, will be reevaluated only on the two unfinished phases, unless it is found that some portion of the completed phase is causing a negative impact on the uncompleted phases.

380.02 Supplemental Environmental Documents. Supplemental environmental documentation is required if the reevaluation identifies significant new or increased adverse environmental impacts or if changes have occurred to the projects that are not addressed in the original document. For NEPA projects, supplemental documentation may be a supplemental DEIS, a new DEIS, the addition of new or additional information in a FEIS, or an EA (23 CFR 771.130 and 40 CFR 1502.9). Supplemental environmental impact statements shall be reviewed and distributed in the same manner as DEISs and FEISs.

SECTION 390.00 – EXHIBITS

Exhibit 300-1. Environmental Assessment Outline

PREFACE

This outline is provided for the guidance of authors and reviewers of Environmental Assessments (EAs). It is intended to ensure that EAs are complete and in compliance with National Environmental Policy Act (NEPA) regulations 40 CFR 1500 to 1508, and Federal Highway Administration (FHWA) regulations and guidelines set forth at 23 CFR 771, and in Technical Advisory T 6640.8A (See [Exhibit 300-4](#))

There is no code requirement for an EA format, but for the sake of efficiency and consistency ITD HQ Environmental Section is requiring that all districts comply with the format included here.

An environmental assessment must be prepared for all actions involving Federal funds and/or approvals which do not qualify as a categorical exclusion and do not clearly require an environmental impact statement (EIS). The purpose of an EA is twofold. First, an EA should resolve any uncertainty as to whether an EIS is needed. Should the need for an EIS become evident at any time during the EA process, the EIS should be started. The second purpose of an EA is to provide sufficient information to serve as the record for all environmental approvals and consultations required by law.

If an EIS is not required, the EA is made available to resource agencies and the public for a 30-day review and comment period. Following public availability period, the EA is revised or a supplemental EA is prepared, as appropriate, to (1) describe changes to the proposed action or mitigation resulting from comments received on the EA or at the public hearing, if one is held; (2) include any necessary findings, agreements, or determinations (e.g., wetlands, Section 106, etc.);

and (3) include a copy of pertinent comments received on the EA and the agency's responses to the comments. This supplemental EA is then submitted to FHWA along with a copy of the public hearing transcript (if one is held), and a request for a finding of no significant impact (FONSI). If FHWA concurs with the finding, the EA process is completed with a determination that the action will have no significant impact to the environment (the FONSI), issued by FHWA.

This EA outline is designed to be a guide. It should not be viewed as an inflexible format for every EA. *To minimize volume, an EA should use good quality maps and exhibits.* Background data and technical reports should be incorporated by references and summarized to support concise discussions of the alternatives and their impacts.

ENVIRONMENTAL ASSESSMENT OUTLINE CONTENTS

Cover Sheet	(See Example at end of Exhibit)
Tri-Message Page.....	
Table of Contents.....	(Page)
Description of Proposed Action.....	(Page)
Purpose and Need for the Action.....	(Page)
Alternatives to the Proposed Action.....	(Page)
Impacts of the Proposed Action.....	(Page)
Comments and Coordination.....	(Page)
Section 4(f) Evaluation.....	(Page)
Mitigation Plan Report.....	(Page)
Appendices.....	(Page)

COVER SHEET

There is no required format for an EA cover sheet. Refer to T6640.8A (Exhibit 300-4) for a recommended format.

TABLE OF CONTENTS

A. Include all sections as well as a list, if possible, of any documents that are appended, adopted, or serve as technical reports for the EA.

B. Include a list of all maps, illustrations, and figures.

TRI MESSAGE PAGE

This page is added to cover any perceptions of discrimination or bias in disseminating the information to the public. The statements must be followed in any public involvement activities. The English/metric message is simply to explain why some of the information in the document, primarily that generated by ITD will be in English and why some information, primarily the scientific information, may be in metric.

DESCRIPTION OF THE PROPOSED ACTION

Describe the proposed action. If more than one alternative is being considered, describe each alternative. Include maps, illustrations, exhibits, etc. Be careful to include sufficient design data to allow an accurate assessment of impacts without committing to specific details that are subject to refinement or change. Lane and shoulder widths, median widths, etc., may be omitted or expressed as a variable if not definitely known. For example, *“The proposed project will provide two travel lanes in each direction with a continuous, center and two-way left turn lanes.*

Including shoulders, the total roadway width will be 76 feet”; or *“The proposed project will widen the existing roadway to two 12-foot lanes with 8 to 10 foot paved shoulders.”* Do not assume that proposed design deviations will be approved at a future date.

A. Location, length, termini, and why the termini are logical

B. Major design features (brief description, not a complete design report)

1. Number of lanes, tracks, or runways
2. Median type/ function
3. Pavement or construction type
4. Typical cross-section(s)
5. Provisions for mass transit
6. Provisions for high occupancy vehicles.
7. Interchange and/or structural locations
 - a. Interchanges
 - b. Grade separations
 - c. At-grade intersections
 - d. Railroad crossings
 - e. River crossings
 - f. Pedestrian, bicycle, or equestrian crossings
8. Right of way acquisition requirements (Identify whether additional right of way will or will not be required. Specific right of way acquisition impacts are discussed under impacts elsewhere in the EA.)
9. Illumination.
10. Pedestrian and bicycle facilities
11. Displacement of utilities
12. Estimated cost and construction schedule
13. Permits needed, including name of permitting agency

PURPOSE OF AND NEED FOR ACTION

The purpose and need section is in many ways the most important statement in an environmental document or environmental impact statement (EIS). It establishes why the agency is proposing to spend large amounts of taxpayers' money while at the same time causing substantial environmental impacts. A clear, well-justified purpose and need section explains to the public and decision makers that the expenditure of funds is necessary and worthwhile and that the priority the project is being given relative to other needed highway projects is warranted. In addition, although substantial environmental

impacts are expected to be caused by the project, the purpose and need section should justify why impacts are acceptable based on the project's importance.

As importantly, the project purpose and need drives the process for alternatives consideration, in-depth analysis, and ultimate selection. The Council on Environmental Quality (CEQ) regulation requires that the environmental document address the "no-action" alternative and "rigorously explore and objectively evaluate all reasonable alternatives." Furthermore, a well-justified purpose and need is vital to meeting the requirements of Section 4(f) (49 U.S.C. 303) and the Executive Orders on Wetlands (E.O. 11990) and Floodplains (E.O. 11988) and the Section 404(b)(1) Guidelines. Without a well-defined, well-established and well-justified purpose and need, it will be difficult to determine which alternatives are reasonable, prudent and practicable, and it may be impossible to dismiss the no-build alternative.

The transportation planning process, which includes regional, sub-area, and corridor planning, can serve as the primary source of information for establishing purpose and need as well as evaluating alternatives. Information and forecasts of vehicle miles of travel, travel demand, highway and travel speeds, traffic diversion, time of day characteristics, and traffic accident rates can be provided by the planning process. This information can be used to evaluate congestion, air quality, safety, and other environmental issues for various transportation alternatives including the no-build alternative. Planning can also estimate the benefits and costs associated with highway and transit projects that can be used in the development of project "purpose and need."

Elements of Purpose and Need This material is covered in Technical Advisory document TA 6640.8A ([Exhibit 300-4](#))

The following items may assist in the explanation of the need for a proposed action. It is by no means all-inclusive or applicable in every situation and is intended only as a guide.

- *Project Status* - Briefly describe the project history including actions taken to date, other agencies and governmental units involved, action spending, schedules, etc.
- *Capacity* - Is the capacity of the present facility inadequate for the present traffic? Projected traffic? What capacity is needed? What is the level(s) of service for existing and proposed facilities?
- *System Linkage* - Is the proposed project a "connecting link?" How does it fit in the transportation system?
- *Transportation Demand* - Including relationship to any statewide plan or adopted urban transportation plan together with an explanation of the project's traffic forecasts that are substantially different from those estimates from the 23 U.S.C. 134 (Section 134) planning process.
- *Legislation* - Is there a Federal, State, or local governmental mandate for the action?

- *Social Demands or Economic Development* - New employment, schools, land use plans, recreation, etc. What projected economic development/land use changes indicate the need to improve or add to the highway capacity?
- *Modal Interrelationships* - How will the proposed facility interface with and serve to complement airports, rail and port facilities, mass transit services, etc.?
- *Safety* - Is the proposed project necessary to correct an existing or potential safety hazard? Is the existing accident rate excessively high? Why? How will the proposed project improve it?
- *Roadway Deficiencies* - Is the proposed project necessary to correct existing roadway deficiencies (e.g., substandard geometrics, load limits on structures, inadequate cross-section, or high maintenance costs)? How will the proposed project improve it?

The following is a list of items that may assist in clearly demonstrating the need for the action and should be viewed as additional detail for the items listed on the ITD 654 Form. The project need will come from the items listed in the Project Purpose and Benefits on the 654 form. All of the items are not applicable in every situation.

A. Transportation Demand and Capacity Needs. Is the present facility inadequate for existing traffic? Will the proposed action alleviate traffic congestion? Include relationship to any District, state, or local plans or urban transportation plan.

B. Safety Needs. Are existing accident rates excessively high? How will the proposed action decrease the accident rate? (Include quantitative accident figures before and predicted rate after construction.) Is the proposed action necessary to correct an undesirable situation?

C. System continuity. Is the proposed action necessary to complete a gap in the existing transportation system?

D. Structural Needs. Is the action needed to improve the structural condition of the existing facility?

E. Social Service Demands or Economic Development Needs. What projected economic development/land use changes indicate the need to improve or add to the highway capacity? Consider new employment, schools, land use plans, recreation, etc.

F. Environmental Impact Mitigation Needs. Is the proposed action designed to mitigate impacts caused by a related project?

G. Modal Interrelationship Needs. How will the proposed action interface with air, rail, and/or port facilities, mass transit services, etc.?

H. Legislative Mandate. Is there a Federal, state, or local governmental mandate for action?

ALTERNATIVES TO THE PROPOSED ACTION

In urbanized areas, the urban transportation planning process required by Section 134 of Title 23, should result in plans and programs that are consistent with the comprehensively planned development of an area and that integrate transportation, land use, and environmental

considerations. Comprehensive planning, which includes transportation, should establish the basic purpose and need for specific projects and the system wide consequences of operational improvements and the no-build alternative. For example, the planning process should identify the need for a transportation improvement between points x and y at some future date. Further, in a high percentage of cases, a decision on the appropriate mode (highway or transit) and the basic project concept (freeway on new location, upgrade of existing facility, light rail transit, bus/high-occupancy vehicle lanes, approximate travel demand, etc.) can be determined. In other cases, it may not be possible to resolve these issues until the conclusion of the project development process. Scoping meetings early in the environmental process are an excellent means to reach agreement with the participants on the basic purpose and need for the project, the consequences of the no-build alternative, and operational improvements and, where possible, the mode and project concept.

After the basic purpose and need for the project are established, a number of lines can theoretically still be drawn to connect points x and y. If the project's purpose and need are so vague as to only stipulate that a transportation improvement between x and y is needed, then reasonable alternatives would cover a wide range and must be evaluated to comply with the CEQ regulations. As the project's purpose and need is refined, a number of alternatives will drop out, thereby permitting a more focused analysis of those alternatives that truly address the problem to be solved. As alternatives are dropped from consideration, it is recommended that the concurrence of those cooperating agencies with jurisdiction by law be sought in that decision.

In a similar manner, the type of improvement to be considered even after the planning process may be wide ranging: from upgrading an existing facility to multi-lane freeway on new location. The traffic demands, safety concerns, system continuity considerations, etc., all will help define reasonable alternatives and products from the transportation planning process should serve as a primary source for this information.

Beyond the CEQ regulations requirement of evaluating all, or a reasonable number representative of the full spectrum of reasonable alternatives, there are other more action-limiting requirements for alternatives under Section 4(f), the Executive Orders on Wetlands and Floodplains, and the Section 404(b)(1) guidelines. To address these requirements and conclusively demonstrate that some alternatives are not prudent or practicable, a well-justified purpose and need are vital.

The use of land from a Section 4(f) protected property (significant publicly owned public park, recreation area or wildlife and waterfowl refuge, or any significant historic site) may not be approved unless a determination is made that there is no feasible and prudent alternative to such use. There are numerous factors that could render an alternative "not prudent" because of unique problems, including cost and environmental impacts. If an alternative does not meet the project's purpose or satisfy the needs then the alternative is not prudent provided the purpose and need section can substantiate that unique problems will be caused by not building the project.

If a proposed action is to be located in a wetland or it entails a floodplain encroachment with significant impacts, a finding must be made that there is no practicable alternative to the wetland take or floodplain encroachment. Any alternative that does not meet the need for the project is not practicable. If the project's purpose and need are not adequately addressed, specifically delineated and properly justified, resource agencies, interest groups, the public or others will be able to generate one or possibly several alternatives which avoid or limit the impact and "appear" practicable. Sometimes long, drawn out negotiations or additional analyses are needed to clearly

demonstrate that an alternative is not practicable, where a well-described justification of the project's purpose and need would have clearly established it.

If an alternative does not satisfy the purpose and need for the project, as a rule, it should not be included in the analysis as an apparent reasonable alternative. There are times when an alternative that is not reasonable is included based on the request of another agency or due to public expectation. In such cases, it should be clearly explained why the alternative is not reasonable (or prudent or practicable), why it is being analyzed in detail and that because it is not reasonable that it will not be selected.

IMPACTS OF THE PROPOSED ACTION

The primary purpose of an EA is to help the agency and the FHWA decide whether or not an EIS is needed. *Therefore, the EA should address only those resources or features that the agency and the FHWA decide will have likelihood for being significantly affected.* Impact areas that do not have a reasonable possibility for individual or cumulative significant environmental impacts need not be discussed. However, if it would be unclear to a layman why an impact area is unaffected, the EA should *briefly* explain why there is no effect. The EA should list those elements of the environment that will not be significantly affected.

Discuss any social, economic, and environmental impacts that would be caused by the proposed action, or by each alternative if more than one proposal is under consideration, whose significance is uncertain. The level of analysis should be sufficient to adequately identify the impacts and appropriate mitigation measures, and to address known to foreseeable public and agency concerns. Discuss why these impacts are not considered significant. For each element analyzed, include the following information:

- A. Studies performed and coordination conducted
- B. Affected environment. The description of the affected environment shall be no longer than is necessary to understand the effects of the proposed action
- C. Impacts of the proposed action during construction
- D. Impacts of the proposed action during operation
- E. Mitigation measures, commitments, and monitoring procedures
- F. Why the impacts are not considered significant

The items listed on the ITD 654 form (below) should be identified or addressed in the document as not affected, or as not being substantially affected, by the project. When an analysis of an individual element is required to assess the significance of an impact, refer to the NEPA EIS Outline [See [Exhibit 300-4](#) and [Section 360.00](#)] for additional information.

- 1. Noise Criteria Impacts*
- 2. Change in Access or Access Control
- 3. Change in Travel Patterns
- 4. Neighborhood or Service Impacts
- 5. Economic Disruption
- 6. Inconsistent w/Local or State Planning
- 7. Minorities, Low Income Populations
- 8. Displacements*
- 10. LWCF Recreation Areas/6(f) Lands*
- 11. Section 106-Nat. Hist. Preser. Act*
- 12. FAA Airspace Intrusion
- 13. Visual Impacts
- 14. Prime Farmland,* Parcel Splits
- 15. Known/Suspected "Hazmat" Risks

16. Wildlife/Fish Resources, Habitat**
17. Threatened/Endangered Species*
18. Air Quality Impacts
19. Inconsistent w/Air Quality Plan
20. Stream Alteration/Encroachment**
21. Flood Plain Encroachment*
22. Regulatory Floodway
23. Navigable Waters**
24. Wetlands*
25. Sole Source Aquifer
26. Water Quality, Runoff Impacts
27. NPDES-General Permit

COMMENTS AND COORDINATION

Describe all early and continuing coordination efforts, and summarize the key issues and pertinent information received from government agencies and the public. Include a list of agencies and, as appropriate, members of the public consulted.

SECTION 4(f) EVALUATION (if any)

If the EA includes a Section 4(f) evaluation, the EA/draft Section 4(f) evaluation must be circulated to the appropriate agencies for Section 4(f) coordination (23 CFR 771.135 (i)). The revised EA or EA Errata/final Section 4(f) evaluation would then be required to specifically address: (1) the reason(s) why the alternatives to the proposed action that would avoid each Section 4(f) property are not feasible and prudent; and, (2) all measures which will be taken to minimize harm to each Section 4(f) property. If a revised EA or EA *errata* is not required, the final Section 4(f) property evaluation discussion of avoidance alternatives and mitigating measures will be included in the FONSI. Refer to [Section 1700](#) & [Section 1800](#) for specific guidance on preparing or reviewing Section 4(f) evaluations.

MITIGATION PLAN REPORT

A list of environmental commitments (if any) should be developed in conjunction with the preparation of an EA. Refer to [Exhibit 300-5](#) for guidance on the preparation, timing, circulation, and tracking of commitments.

As each project impact is developed in the **IMPACTS OF THE PROPOSED ACTION** section, a summary of the mitigation proposed to off set the impact can be included. This does not have to be a detailed section. For instance, if a wetland is to be filled or partially filled, the summary can simply state that additional wetland will be created or enhanced or preserved, as the case may be, in order to attain no net loss of wetland value and function.

In the **MITIGATION PLAN REPORT** section, prepare a detailed Mitigation Plan Report. Using the above example, here is an example of what would be contained in the details of the plan: - where the new wetland will be created:

- 1 The specific location
- 2 This wetland will be replacing the impacted wetland at a (given) ratio and will meet the following functions and values:
- 3 (list those functions and values.)
- 4-A monitoring plan will include the following schedule and goals: (List them here).
- 5-The design of the wetland is included as Appendix (x)

APPENDICES (if any)

The appendices should include only information that substantiates an analysis important to the EA (e.g., a biological assessment for threatened or endangered species). Other material should be referenced only (i.e., identify the material and briefly describe its contents).

Exhibit 300-2 - CEQ Guidance on Scoping – Sec.1501.7

Sec. 1501.7 Scoping. There shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. This process shall be termed scoping. As soon as practicable after its decision to prepare an environmental impact statement and before the scoping process the lead agency shall publish a notice of intent (Sec. 1508.22) in the Federal Register except as provided in Sec. 1507.3(e).

(a) As part of the scoping process the lead agency shall:

1. Invite the participation of affected Federal, State, and local agencies, any affected Indian tribe, the proponent of the action, and other interested persons (including those who might not be in accord with the action on environmental grounds), unless there is a limited exception under Sec. 1507.3(c). An agency may give notice in accordance with Sec. 1506.6.
2. Determine the scope (Sec. 1508.25) and the significant issues to be analyzed in depth in the environmental impact statement.
3. Identify and eliminate from detailed study the issues which are not significant or which have been covered by prior environmental review (Sec. 1506.3), narrowing the discussion of these issues in the statement to a brief presentation of why they will not have a significant effect on the human environment or providing a reference to their coverage elsewhere.
4. Allocate assignments for preparation of the environmental impact statement among the lead and cooperating agencies, with the lead agency retaining responsibility for the statement.
5. Indicate any public environmental assessments and other environmental impact statements that are being or will be prepared that are related to but are not part of the scope of the impact statement under consideration.
6. Identify other environmental review and consultation requirements so the lead and cooperating agencies may prepare other required analyses and studies concurrently with, and integrated with, the environmental impact statement as provided in Sec. 1502.25.
7. Indicate the relationship between the timing of the preparation of environmental analyses and the agency's tentative planning and decision-making schedule.

- (b) As part of the scoping process the lead agency may:
8. Set page limits on environmental documents (Sec. 1502.7).
 9. Set time limits (Sec. 1501.8).
 10. Adopt procedures under Sec. 1507.3 to combine its environmental assessment process with its scoping process.
 11. Hold an early scoping meeting or meetings that may be integrated with any other early planning meeting the agency has. Such a scoping meeting will often be appropriate when the impacts of a particular action are confined to specific sites.

(c) An agency shall revise the determinations made under paragraphs (a) and (b) of this section if substantial changes are made later in the proposed action, or if significant new circumstances or information arise which bear on the proposal or its impacts.

Scope consists of the range of actions, alternatives, and impacts to be considered in an environmental impact statement. The scope of an individual statement may depend on its relationships to other statements (Secs. 1502.20 and 1508.28). To determine the scope of environmental impact statements, agencies shall consider 3 types of actions, 3 types of alternatives, and 3 types of impacts. They include:

(a) Actions (other than unconnected single actions) which may be:

1. Connected actions, which means that they are closely related and therefore should be discussed in the same impact statement. Actions are connected if they:

(i) Automatically trigger other actions that may require environmental impact statements.

(ii) Cannot or will not proceed unless other actions are taken previously or simultaneously.

(iii) Are interdependent parts of a larger action and depend on the larger action for their justification.

2. Cumulative actions, which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement.
3. Similar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. An agency may wish to analyze these actions in the same impact statement. It should do so when the best way to assess adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single impact statement.

(b) Alternatives, which include:

4. No action alternative.
5. Other reasonable courses of actions.
6. Mitigation measures (not in the proposed action).

(c) Impacts, which may be: (1) Direct; (2) indirect; (3) cumulative.

Exhibit 300-3 40 CFR PART 1508 - TERMINOLOGY AND INDEX

Section 1508.1 Terminology.

The terminology of this part shall be uniform throughout the Federal Government.

Section 1508.2 Act.

"Act" means the National Environmental Policy Act, as amended (42 U.S.C. 4321, et seq.) which is also referred to as "NEPA."

Section 1508.3 Affecting.

"Affecting" means will or may have an effect on.

Section 1508.4 Categorical exclusion.

"Categorical Exclusion" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (Section 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. An agency may decide in its procedures or otherwise, to prepare environmental assessments for the reasons stated in Section 1508.9 even though it is not required to do so. Any procedures under this section shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect.

Section 1508.5 Cooperating agency.

"Cooperating Agency" means any Federal agency other than a lead agency that has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major Federal action significantly affecting the quality of the human environment. The selection and responsibilities of a cooperating agency are described in Section 1501.6. A State or local agency of similar qualifications or, when the effects are on a reservation, an Indian Tribe, may by agreement with the lead agency become a cooperating agency.

Section 1508.6 Council.

"Council" means the Council on Environmental Quality established by Title II of the Act.

Section 1508.7 Cumulative Impact.

"Cumulative impact" is the impact on the environment that results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

Section 1508.8 Effects.

"Effects" include:

(a) Direct effects, which are caused by the action and occur at the same time and place.

(b) Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems. Effects and impacts as used in these regulations are synonymous. Effects include ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions that may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial.

Section 1508.9 Environmental Assessment.

"Environmental Assessment":

(a) Means a concise public document for which a Federal agency is responsible that serves to:

(1) Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact.

(2) Aid an agency's compliance with the Act when no environmental impact statement is necessary.

(3) Facilitate preparation of a statement when one is necessary.

(b) Shall include brief discussions of the need for the proposal, of alternatives as required by sec. 102(2)(E), of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted.

Section 1508.10 Environmental Document.

"Environmental document" includes the documents specified in Section 1508.9 (environmental assessment), Section 1508.11 (environmental impact statement), Section 1508.13 (finding of no significant impact), and Section 1508.22 (notice of intent).

Section 1508.11 Environmental Impact Statement.

"Environmental Impact Statement" means a detailed written statement as required by sec. 102(2)(C) of the Act.

Section 1508.12 Federal Agency.

"Federal agency" means all agencies of the Federal Government. It does not mean the Congress, the Judiciary, or the President, including the performance of staff functions for the President in his Executive Office. It also includes for purposes of these regulations States and units of general local government and Indian tribes assuming NEPA responsibilities under section 104(h) of the Housing and Community Development Act of 1974.

Section 1508.13 Finding of no significant impact.

"Finding of No Significant Impact" means a document by a Federal agency briefly presenting the reasons why an action, not otherwise excluded (Section 1508.4), will not have a significant effect on the human environment and for which an environmental impact statement therefore will not be prepared. It shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it (Section 1501.7(a)(5)). If the assessment is included, the finding need not repeat any of the discussion in the assessment but may incorporate it by reference.

Section 1508.14 Human Environment.

"Human Environment" shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment. (See the definition of "effects" (Section 1508.8).) This means that economic or social effects are not intended by themselves to require preparation of an environmental impact statement. When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, then the environmental impact statement will discuss all of these effects on the human environment.

Section 1508.15 Jurisdiction By Law.

"Jurisdiction by law" means agency authority to approve, veto, or finance all or part of the proposal.

Section 1508.16 Lead Agency.

"Lead Agency" means the agency or agencies preparing or having taken primary responsibility for preparing the environmental impact statement.

Section 1508.17 Legislation.

"Legislation" includes a bill or legislative proposal to Congress developed by or with the significant cooperation and support of a Federal agency, but does not include requests for appropriations. The test for significant cooperation is whether the proposal is in fact predominantly that of the agency rather than another source. Drafting does not by itself constitute significant cooperation. Proposals for legislation include requests for ratification of treaties. Only the agency that has primary responsibility for the subject matter involved will prepare a legislative environmental impact statement.

Section 1508.18 Major Federal Action.

"Major Federal action" includes actions with effects that may be major and which are potentially subject to Federal control and responsibility. Major reinforces but does not have a meaning independent of significantly (Section 1508.27). Actions include the circumstance where the responsible officials fail to act and that failure to act is reviewable by courts or administrative tribunals under the Administrative Procedure Act or other applicable law as agency action.

(a) Actions include new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by federal agencies; new or revised agency rules, regulations, plans, policies, or procedures; and legislative proposals (Sections 1506.8, 1508.17). Actions do not include funding assistance solely in the form of general revenue sharing funds, distributed under the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 et seq., with no Federal agency control over the subsequent use of such funds. Actions do not include bringing judicial or administrative civil or criminal enforcement actions.

(b) Federal actions tend to fall within one of the following categories:

(1) Adoption of official policy, such as rules, regulations, and interpretations adopted pursuant to the Administrative Procedure Act, 5 U.S.C. 551 et seq.; treaties and international conventions or agreements; formal documents establishing an agency's policies which will result in or substantially alter agency programs.

(2) Adoption of formal plans, such as official documents prepared or approved by federal agencies that guide or prescribe alternative uses of federal resources, upon which future agency actions will be based.

(3) Adoption of programs, such as a group of concerted actions to implement a specific policy or plan; systematic and connected agency decisions allocating agency resources to implement a specific statutory program or executive directive.

(4) Approval of specific projects, such as construction or management activities located in a defined geographic area. Projects include actions approved by permit or other regulatory decision as well as federal and federally assisted activities.

Section 1508.19 Matter.

"Matter" includes for purposes of Part 1504:

(a) With respect to the Environmental Protection Agency, any proposed legislation, project, action or regulation as those terms are used in section 309(a) of the Clean Air Act (42 U.S.C. 7609).

(b) With respect to all other agencies, any proposed major federal action to which section 102(2)(C) of NEPA applies.

Section 1508.20 Mitigation.

"Mitigation" includes:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments.

Section 1508.21 NEPA process.

"NEPA process" means all measures necessary for compliance with the requirements of section 2 and Title I of NEPA.

Section 1508.22 Notice of intent.

"Notice of Intent" means a notice that an environmental impact statement will be prepared and considered. The notice shall briefly:

- (a) Describe the proposed action and possible alternatives.
- (b) Describe the agency's proposed scoping process including whether, when, and where any scoping meeting will be held.
- (c) State the name and address of a person within the agency who can answer questions about the proposed action and the environmental impact statement.

Section 1508.23 Proposal.

"Proposal" exists at that stage in the development of an action when an agency subject to the Act has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated. Preparation of an environmental impact statement on a proposal should be timed (Section 1502.5) so that the final statement may be completed in time for the statement to be included in any recommendation or report on the proposal. A proposal may exist in fact as well as by agency declaration that one exists.

Section 1508.24 Referring Agency.

"Referring agency" means the federal agency that has referred any matter to the Council after a determination that the matter is unsatisfactory from the standpoint of public health or welfare or environmental quality.

Section 1508.25 Scope.

Scope consists of the range of actions, alternatives, and impacts to be considered in an environmental impact statement. The scope of an individual statement may depend on its relationships to other statements (Sections 1502.20 and 1508.28). To determine the scope of environmental impact statements, agencies shall consider 3 types of actions, 3 types of alternatives, and 3 types of impacts. They include:

(a) Actions (other than unconnected single actions) which may be:

(1) Connected actions, which means that they are closely related and therefore should be discussed in the same impact statement. Actions are connected if they:

(i) Automatically trigger other actions that may require environmental impact statements.

(ii) Cannot or will not proceed unless other actions are taken previously or simultaneously.

(iii) Are interdependent parts of a larger action and depend on the larger action for their justification.

(2) Cumulative actions, which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement.

(3) Similar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. An agency may wish to analyze these actions in the same impact statement. It should do so when the best way to assess adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single impact statement.

(b) Alternatives, which include:

(1) No action alternative.

(2) Other reasonable courses of actions.

(3) Mitigation measures (not in the proposed action).

(c) Impacts, which may be:

(1) Direct;

(2) Indirect;

(2) Cumulative.

Section 1508.26 Special Expertise.

"Special expertise" means statutory responsibility, agency mission, or related program experience.

Section 1508.27 Significantly.

"Significantly" as used in NEPA requires considerations of both context and intensity:

(a) Context- This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.

(b) Intensity- This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:

(1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.

(2) The degree to which the proposed action affects public health or safety.

(3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

(4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.

(5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

(6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

(8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

(9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973. (10)

Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

1508.28 Tiering.

"Tiering" refers to the coverage of general matters in broader environmental impact statements (such as national program or policy statements) with subsequent narrower statements or environmental analyses (such as regional or basin wide program statements or ultimately site-specific statements) incorporating by reference the general discussions and concentrating solely on the issues specific to the statement subsequently prepared. Tiering is appropriate when the sequence of statements or analyses is:

(a) From a program, plan, or policy environmental impact statement to a program, plan, or policy statement or analysis of lesser scope or to a site-specific statement or analysis.

(b) From an environmental impact statement on a specific action at an early stage (such as need and site selection) to a supplement (which is preferred) or a subsequent statement or analysis at a later stage (such as environmental mitigation). Tiering in such cases is appropriate when it helps the lead agency to focus on the issues that are ripe for decision and exclude from consideration issues already decided or not yet ripe.

Exhibit 300-4. Technical Guidance 6640.8A

**U.S. Department of Transportation
Federal Highway Administration**

TECHNICAL ADVISORY

**GUIDANCE FOR PREPARING AND PROCESSING
ENVIRONMENTAL AND SECTION 4(F) DOCUMENTS**

**T 6640.8A
October 30, 1987**

1. **PURPOSE.** To provide guidance to Federal Highway Administration (FHWA) field offices and to project applicants on the preparation and processing of environmental and Section 4(f) documents.
2. **CANCELLATION.** Technical Advisory T 6640.8, "Guidance Material for the Preparation of Environmental Documents," dated February 24, 1982, is canceled effective on November 27, 1987.
3. **APPLICABILITY**
 - a. **This material is not regulatory.** It has been developed to provide guidance for uniformity and consistency in the format, content, and processing of the various environmental studies and documents pursuant to the National Environmental Policy Act (NEPA), 23 U.S.C.109(h) and 23 U.S.C. 138 (Section 4(f) of the DOT Act) and the reporting requirements of 23 U.S.C. 128.
 - b. **The guidance is limited to the format, content and processing of NEPA and Section 4(f) studies and documents.** It should be used in combination with a knowledge and understanding of the Council on Environmental Quality (CEQ) Regulations for Implementing NEPA (40 CFR 1500-1508), FHWA's Environmental Impact and Related Procedures (23 CFR 771) and other environmental statutes and orders (see Appendix A).
 - c. This guidance should not be used until November 27, 1987, the effective date of the 1987 revisions to 23 CFR 771.

Ali F. Sevin
Director, Office of
Environmental Policy

GUIDANCE FOR PREPARING AND PROCESSING ENVIRONMENTAL AND SECTION 4(F) DOCUMENTS

Background

An earlier edition of this advisory (dated February 24, 1982) placed major emphasis on environmental impact statements (EISs) and provided limited guidance on environmental assessments (EAs) and other environmental studies needed for a categorical exclusion (CE) determination or a finding of no significant impact (FONSI). The revised guidance gives expanded coverage to CE determinations, EAs, FONSI, EISs, supplemental EISs, reevaluations, and Section 4(f) evaluations. This material is not regulatory. It does, however, provide for uniformity and consistency in the documentation of CEs and the development of environmental and Section 4(f) documents.

The FHWA subscribes to the philosophy that the goal of the NEPA process is better decisions and not more documentation. Environmental documents should be concise, clear, and to the point, and should be supported by evidence that the necessary analyses have been made. They should focus on the important impacts and issues with the less important areas only briefly discussed. **The length of EAs should normally be less than 15 pages** and EISs should normally be less than 150 pages for most proposed actions and not more than 300 pages for the most complex proposals. The use of technical reports for various subject areas would help reduce the size of the documents.

The FHWA considers the early coordination process to be a valuable tool in determining the scope of issues to be addressed and in identifying and focusing on the proposed action's important issues. This process normally entails the exchange of information with appropriate Federal, State and local agencies, and the public from inception of the proposed action to preparation of the environmental document or to completion of environmental studies for applicable CEs. Formal scoping meetings may also be held where such meetings would assist in the preparation of the environmental document. The role of other agencies and other environmental review and consultation requirements should be established during scoping. The Council on Environmental Quality (CEQ) has issued several guidance publications on NEPA and its regulations as follows: (1) "Questions and Answers about the NEPA Regulations," March 30, 1981; (2) "Scoping Guidance," April 30, 1981; and (3) "Guidance Regarding NEPA Regulations," July 28, 1983. This non-regulatory guidance is used by FHWA in preparing and processing environmental documents. Copies of the CEQ guidance are available in the FHWA Office of Environmental Policy (HEV-11).

Note, highway agency (HA) is used throughout this document to refer to a State and local highway agency responsible for conducting environmental studies and preparing environmental documents and to FHWA's Office of Direct Federal Programs when that office acts in a similar capacity.

I. CATEGORICAL EXCLUSION (CE)

Categorical exclusions are actions or activities which meet the definition in 23 CFR 771.117(a) and, based on FHWA's past experience, do not have significant environmental effects. The CEs are divided into two groups based on the action's

potential for impacts. The level of documentation necessary for a particular CE depends on the group the action falls under as explained below.

A. Documentation of Applicability

The first group is a list of 20 categories of actions in 23 CFR 771.117(c) which experience has shown never or almost never cause significant environmental impacts. These categories are non-construction actions (e.g., planning, grants for training and research programs) or limited construction activities (e.g., pedestrian facilities, landscaping, fencing). These actions are automatically classified as CEs, and except where unusual circumstances are brought to FHWA's attention, do not require approval or documentation by FHWA. However, other environmental laws may still apply. For example, installation of traffic signals in a historic district may require compliance with Section 106, or a proposed noise barrier which would use land protected by Section 4(f) would require preparation of a Section 4(f) evaluation (23 CFR 771.135(i)). In most cases, information is available from planning and programming documents for the FHWA Division Office to determine the applicability of other environmental laws. However, any necessary documentation should be discussed and developed cooperatively by the highway agency (HA) and the FHWA.

The second group consists of actions with a higher potential for impacts than the first group, but due to minor environmental impacts still meets the criteria for categorical exclusions. In 23 CFR 771.117(d), the regulation lists examples of 12 actions which past experience has found appropriate for CE classification. However, the second group is not limited to these 12 examples. Other actions with a similar scope of work may qualify as CEs. For actions in this group, site location is often a key factor. Some of these actions on certain sites may involve unusual circumstances or result in significant adverse environmental impacts. Because of the potential for impacts, these actions require some information to be provided by the HA so that the FHWA can determine if the CE classification is proper (23 CFR 771.117(d)). **The level of information to be provided should be commensurate with the action's potential for adverse environmental impacts.** Where adverse environmental impacts are likely to occur, the level of analysis should be sufficient to define the extent of impacts, identify appropriate mitigation measures, and address known and foreseeable public and agency concerns. As a minimum, the information should include a description of the proposed action and, as appropriate, its immediate surrounding area, a discussion of any specific areas of environmental concern (e.g., Section 4(f), wetlands, relocations), and a list of other Federal actions required, if any, for the proposal.

The documentation of the decision to advance an action in the second group as a CE can be accomplished by one of the following methods:

1. Minor actions from the list of examples:

Minor construction projects or approval actions need only minimum documentation. Where project-specific information for such minor construction projects is included with the Section 105 program and clearly shows that the project is one of the 12 listed examples in Section 771.117(d), the approval of the Section 105 program can be used to approve the projects as CEs. Similarly, the three approval actions on the list (examples (6), (7) and (12)) should not normally require detailed documentation, and the CE determination can be documented as a part of the approval action being requested.

2. Other actions from the list of examples:

For more complex actions, additional information and possibly environmental studies will be needed. This information should be furnished to the FHWA on a case-by-case basis for concurrence in the CE determination.

3. Actions not on the list of examples:

Any action which meets the CE criteria in 23 CFR 771.117(a) *[Editors Note: this refers to 40 CFR 1508.4 which can be viewed in Exhibit 300-9]* may be classified as a CE even though it does not appear on the list of examples in Section 771.117(d). The actions on the list should be used as a guide to identify other actions that may be processed as CEs. The documentation to be submitted to the FHWA must demonstrate that the CE criteria are satisfied and that the proposed project will not result in significant environmental impacts. The classification decision should be documented as a part of the individual project submissions.

4. Consideration of Unusual Circumstances

Section 771.117(b) lists those unusual circumstances where further environmental studies will be necessary to determine the appropriateness of a CE classification. Unusual circumstances can arise on any project normally advanced with a CE; however, the type and depth of additional studies will vary with the type of CE and the facts and circumstances of each situation. For those actions on the fixed list (first group) of CEs, unusual circumstances should rarely, if ever, occur due to the limited scope of work. Unless unusual circumstances come to the attention of the HA or FHWA, they need not be given further consideration. For actions in the second group of CEs, unusual circumstances should be addressed in the information provided to the FHWA with the request for CE approval. The level of consideration, analysis, and documentation should be commensurate with the action's potential for significant impacts, controversy, or inconsistency with other agencies' environmental requirements.

When an action may involve unusual circumstances, sufficient early coordination, public involvement and environmental studies should be undertaken to determine the likelihood of significant impacts. If no significant impacts are likely to occur, the results of environmental studies and any agency and public involvement should adequately support such a conclusion and be included in the request to the FHWA for CE approval. If significant impacts are likely to occur, an EIS must be prepared (23 CFR 771.123(a)). If the likelihood of significant impacts is uncertain even after studies have been undertaken, the HA should consult with the FHWA to determine whether to prepare an EA or an EIS.

II. ENVIRONMENTAL ASSESSMENT (EA)

The primary purpose of an EA is to help the FHWA and HA decide whether or not an EIS is needed. **Therefore, the EA should address only those resources or features which the FHWA and the HA decide will have a likelihood for being significantly impacted.** The EA should be a concise document and should not contain long descriptions or detailed information which may have been gathered or analyses which may have been conducted for the proposed action. Although the regulations do not set page limits, CEQ recommends that the length of EAs usually be less than 15 pages. To minimize volume, the EA should use good quality maps and exhibits and incorporate by reference and summarize background data and technical analyses to support the concise discussions of the alternatives and their impacts.

The following format and content is suggested:

[Editors Note: The format being required for ITD and Idaho FHWA submission is listed in Exhibit 300-2. That format contains the following information as well as other information crucial to making an informed decision on project impacts and mitigation measures.]

A. Cover Sheet.

There is no required format for the EA. However, the EIS cover sheet format, as shown in Section V, is recommended as a guide. A document number is not necessary. The due date for comments should be omitted unless the EA is distributed for comments.

B. Purpose of and Need for Action.

[Editors Note: See [exhibit 300-2](#), [360.06](#) and [530.00](#) for detailed information on Purpose and Need as required by ITD and Idaho FHWA]

Describe the locations, length, termini, proposed improvements, etc. Identify and describe the transportation or other needs that the proposed action is intended to satisfy (e.g., provide system continuity, alleviate traffic congestion, and correct safety or roadway deficiencies). In many

cases the project need can be adequately explained in one or two paragraphs. On projects where a law, Executive Order, or regulation (e.g., Section 4(f), Executive Order 11990, or Executive Order 11988) mandates an evaluation of avoidance alternatives, the explanation of the project need should be more specific so that avoidance alternatives that do not meet the stated project need can be readily dismissed.

C. Alternatives.

Discuss alternatives to the proposed action, including the no-action alternative, that are being considered. The EA may discuss (1) the preferred alternative and identify any other alternatives considered or (2) if the applicant has not identified a preferred alternative, the alternatives under consideration. The EA does not need to evaluate in detail all reasonable alternatives for the project, and may be prepared for one or more build alternatives.

D. Impacts.

For each alternative being considered, discuss any social, economic, and environmental impacts whose significance is uncertain. The level of analysis should be sufficient to adequately identify the impacts and appropriate mitigation measures, and address known and foreseeable public and agency concerns. Describe why these impacts are considered not significant. Identified impact areas that do not have a reasonable possibility for individual or cumulative significant environmental impacts need not be discussed.

E. Comments and Coordination.

Describe the early and continuing coordination efforts, summarize the key issues and pertinent information received from the public and government agencies through these efforts, and list the agencies and, as appropriate, members of the public consulted.

F. Appendices (if any).

The appendices should include only analytical information that substantiates an analysis that is important to the document (e.g., a biological assessment for threatened or endangered species). Other information should be referenced only (i.e., identify the material and briefly describe its contents).

G. Section 4(f) Evaluation (if any).

If the EA includes a Section 4(f) evaluation, or the EA/Section 4(f) evaluation, or if prepared separately, the Section 4(f) evaluation by itself, must be circulated to the appropriate agencies for Section 4(f) coordination (23 CFR 771.135(i)). Section VII provides specific details on

distribution and coordination of Section 4(f) evaluations. Section IX provides information on format and content of Section 4(f) evaluation.

If a programmatic Section 4(f) evaluation is used on the proposed project, this fact should be included and the Section 4(f) resource identified in the EA. The avoidance alternatives evaluation called for in Section 771.135(i) need not be repeated in the EA. Such evaluation would be part of the documentation to support the applicability and findings of the programmatic document.

H. EA Revisions.

Following the public availability period, the EA should be revised or an attachment provided, as appropriate, to (1) reflect changes in the proposed action or mitigation measures resulting from comments received on the EA or at the public hearing (if one is held) and any impacts of the changes, (2) include any necessary findings, agreements, or determination (e.g., wetlands, Section 106, Section 4(f)) required for the proposal, and (3) include a copy of pertinent comments received on the EA and appropriate responses to the comments.

III. FINDING OF NO SIGNIFICANT IMPACT (FONSI)

The EA, revised or with attachment(s) (see paragraph above), is submitted by the HA to the FHWA along with (1) a copy of the public hearing transcript, when one is held, (2) a recommendation of the preferred alternative, and (3) a request that a finding of no significant impact be made. The basis for the HA's finding of no significant impact request should be adequately documented in the EA and any attachment(s).

After review of the EA and any other appropriate information, the FHWA may determine that the proposed action has no significant impacts. This is documented by attaching to the EA a separate statement (sample follows) that clearly sets forth the FHWA conclusions. If necessary, the FHWA may expand the sample FONSI to identify the basis for the decision, uses of land from Section 4(f) properties, wetland finding, etc.

The EA or FONSI should document compliance with NEPA and other applicable environmental laws, Executive Orders, and related requirements. If full compliance with these other requirements is not possible by the time the FONSI is prepared, the documents should reflect consultation with the appropriate agencies and describe when and how the requirements will be met. For example, any action requiring the use of Section 4(f) property cannot proceed until FHWA gives a Section 4(f) approval (49 U.S.C. 303(c)).

IV. DISTRIBUTION OF EAs AND FONSI

A. Environmental Assessment

After clearance by FHWA, EAs must be made available for public inspection at the HA and FHWA Division offices (23 CFR 771.119(d)). Although only a notice of availability of the EA is required, the HA is encouraged to distribute a copy of the document with the notice to Federal, State, and local government agencies likely to have an interest in the undertaking and to the State intergovernmental review contacts. The HA should also distribute the EA to any Federal, State, or local agency known to have interest or special expertise (e.g., EPA for wetlands, water quality, air, noise, etc.) in those areas addressed in the EA which have or may have had potential for significant impact. The possible impacts and the agencies involved should be identified following the early coordination process. Where an individual permit would be required from the Corps of Engineers (COE) (i.e., Section 404 or Section 10) or from the Coast Guard (CG) (i.e., Section 9), a copy of the EA should be distributed to the involved agency in accordance with the U.S. Department of Transportation (DOT)/Corps of Engineers Memorandum of Agreement or the FHWA/U.S. Coast Guard Memorandum of Understanding, respectively. Any internal FHWA distribution will be determined by the Division Office on a case-by-case basis.

B. Finding of No Significant Impact

Formal distribution of a FONSI is not required. The HA must send a notice of availability of the FONSI to Federal, State, and local government agencies likely to have an interest in the undertaking and the State intergovernmental review contacts (23 CFR 771.121(b)). However, it is encouraged that agencies which commented on the EA (or requested to be informed) be advised of the project decision and the disposition of their comments and be provided a copy of the FONSI. This fosters good lines of communication and enhances interagency coordination.

V. Environmental Impact Statement (EIS) -- FORMAT AND CONTENT

A. Cover Sheet

Each EIS should have a cover sheet containing the following information:

(EIS NUMBER)

Route, Termini, City or County, and State

Draft (Final) (Supplement)

Environmental Impact Statement

Submitted Pursuant to 42 U.S.C. 4332 (2) (c)(and where applicable, 49 U.S.C. 303) by the U.S. Department of Transportation, Federal Highway Administration and State Highway Agency and(As applicable, any other joint lead agency)

Cooperating Agencies (Include List Here, as applicable)

Date of Approval

For (State Highway Agency)

Date of Approval

For FHWA

The following persons may be contacted for additional information concerning this document:

(Name, address, and telephone number of FHWA Division Office contact)

(Name, address, and telephone number of HA contact)

A one-paragraph abstract of the statement.

Comments on this draft EIS are due by (date) and should be sent to (name and address).

The top left-hand corner of the cover sheet of all draft final and supplemental EISs contains an identification number. The following is an example:

FHWA-AZ-EIS-87-01-D(F)(S)

FHWA name of Federal agency

AZ name of State (cannot exceed four characters)

EIS environmental impact statement

87 year draft statement was prepared

01 sequential number of draft statement for each calendar year

D designates the statement as the draft statement

F designates the statement as the final statement

S designates supplemental statement and should be combined with draft (DS) or final (FS) statement designation. The year and sequential number will be the same as those used for the original draft EIS.

The EIS should be printed on 8 1/2 x 11-inch paper with any foldout sheets folded to that size. The wider sheets should be 8 1/2 inches high

and should open to the right with the title or identification on the right. The standard size is needed for administrative record keeping.

B. Summary

The summary should include:

1. A brief description of the proposed FHWA action indicating route, termini, type of improvement, number of lanes, length, county, city, State, and other information, as appropriate.
2. A description of any major actions proposed by other governmental agencies in the same geographic area as the proposed FHWA action.
3. A summary of all reasonable alternatives considered. (The draft EIS must identify the preferred alternative or alternatives officially identified by the HA (40 CFR 1502.14(e)). The final EIS must identify the preferred alternative and should discuss the basis for its selection (23 CFR 771.125(a)(1)).
4. A summary of major environmental impacts, both beneficial and adverse.
5. Any areas of controversy (including issues raised by agencies and the public).
6. Any major unresolved issues with other agencies.
7. A list of other Federal actions required for the proposed action (i.e., permit approvals, land transfer, Section 106 agreements, etc.).

C. Table of Contents

For consistency with CEQ regulations, the following standard format should be used:

1. Cover Sheet
 2. Summary
 3. Table of Contents
 4. Purpose of and Need for Action
 5. Alternatives
 6. Affected Environment
 7. Environmental Consequences
 8. List of Preparers
 9. List of Agencies, Organizations, and Persons to Whom Copies of the Statement are Sent
 10. Comments and Coordination
 11. Index
 12. Appendices (if any)
- D. Purpose of and Need for Action
- [Editors Note: See Purpose and Need details in 300-2, 300.01 and 314.03]*

Identify and describe the proposed action and the transportation problem(s) or other needs that it is intended to address (40 CFR 1502.13). This section should clearly demonstrate that a "need" exists and should define the "need" in terms understandable to the general public. This discussion should clearly describe the problems that the proposed action is to correct. It will form the basis for the "no action" discussion in the "Alternatives" section, and assist with the identification of reasonable alternatives and the selection of the preferred alternative. Charts, tables, maps, and other illustrations (e.g., typical cross-section, photographs, etc.) are encouraged as useful presentation techniques.

The following is a list of items that may assist in the explanation of the need for the proposed action. It is by no means all-inclusive or applicable in every situation and is intended only as a guide.

1. Project Status - Briefly describe the project history including actions taken to date, other agencies and governmental units involved, action spending, schedules, etc.
2. System Linkage - Is the proposed project a "connecting link?" How does it fit in the transportation system?
3. Capacity - Is the capacity of the present facility inadequate for the present traffic? Projected traffic? What capacity is needed? What is the level(s) of service for existing and proposed facilities?
4. Transportation Demand - Including relationship to any statewide plan or adopted urban transportation plan together with an explanation of the project's traffic forecasts that are substantially different from those estimates from the 23 U.S.C. 134 (Section 134) planning process.
5. Legislation - Is there a Federal, State, or local governmental mandate for the action?
6. Social Demands or Economic Development - New employment, schools, land use plans, recreation, etc. What projected economic development/land use changes indicate the need to improve or add to the highway capacity?
7. Modal Interrelationships - How will the proposed facility interface with and serve to complement airports, rail and port facilities, mass transit services, etc.?
8. Safety - Is the proposed project necessary to correct an existing or potential safety hazard? Is the existing accident rate excessively high? Why? How will the proposed project improve it?
9. Roadway Deficiencies - Is the proposed project necessary to correct existing roadway deficiencies (e.g., substandard geometrics, load limits on structures, inadequate cross-section, or high maintenance costs)? How will the proposed project improve it?

E. Alternatives

This section of the draft EIS must discuss a range of alternatives, including all "reasonable alternatives" under consideration and those

"other alternatives" which were eliminated from detailed study (23 CFR 771.123(c)). The section should begin with a concise discussion of how and why the "reasonable alternatives" were selected for detailed study and explain why "other alternatives" were eliminated. The following range of alternatives should be considered when determining reasonable alternatives:

1. "No-action" alternative: The "no-action" alternative normally includes short-term minor restoration types of activities (safety and maintenance improvements, etc.) that maintain continuing operation of the existing roadway.
2. Transportation System Management (TSM) alternative: The TSM alternative includes those activities that maximize the efficiency of the present system. Possible subject areas to include in this alternative are options such as fringe parking, ridesharing, high-occupancy vehicle (HOV) lanes on existing roadways, and traffic signal timing optimization. This limited construction alternative is usually relevant only for major projects proposed in urbanized areas over 200,000 population.

For all major projects in these urbanized areas, HOV lanes should be considered. Consideration of this alternative may be accomplished by reference to the regional transportation plan, when that plan considers this option. Where a regional transportation plan does not reflect consideration of this option, it may be necessary to evaluate the feasibility of HOV lanes during early project development. Where a TSM alternative is identified as a reasonable alternative for a "connecting link" project, it should be evaluated to determine the effect that not building a highway link in the transportation plan will have on the remainder of the system. A similar analysis should be made where a TSM element(s) (e.g., HOV lanes) is part of a build alternative and reduces the scale of the highway link.

While the above discussion relates primarily to major projects in urbanized areas, the concept of achieving maximum utilization of existing facilities is equally important in rural areas. Before selecting an alternative on new location for major projects in rural areas, it is important to demonstrate that reconstruction and rehabilitation of the existing system will not adequately correct the identified deficiencies and meet the project need.

3. Mass Transit: This alternative includes those reasonable and feasible transit options (bus systems, rail, etc.) even though they may not be within the existing FHWA funding authority. It should be considered on all proposed major highway projects in urbanized areas over 200,000 population. Consideration of this alternative may be accomplished by reference to the regional or

area transportation plan where that plan considers mass transit or by an independent analysis during early project development.

Where urban projects are multi-modal and are proposed for Federal funding, close coordination is necessary with the Urban Mass Transportation Administration (UMTA). In these situations, UMTA should be consulted early in the project-development process. Where UMTA funds are likely to be requested for portions of the proposal, UMTA must be requested to be either a joint lead agency or a cooperating agency at the earliest stages of project development (23 CFR 771.111(d)). Where applicable, cost-effectiveness studies that have been performed should be summarized in the EIS.

4. Build alternatives: Both improvement of existing highway(s) and alternatives on new location should be evaluated. A representative number of reasonable alternatives must be presented and evaluated in detail in the draft EIS (40 CFR 1502.14(a)). For most major projects, there is a potential for a large number of reasonable alternatives. Where there are a large number of alternatives, only a representative number of the most reasonable examples, covering the full range of alternatives, must be presented. The determination of the number of reasonable alternatives in the draft EIS, therefore, depends on the particular project and the facts and circumstances in each case.

Each alternative should be briefly described using maps or other visual aids such as photographs, drawings, or sketches to help explain the various alternatives. The material should provide a clear understanding of each alternative's termini, location, costs, and the project concept (number of lanes, right-of-way requirements, median width, access control, etc.). Where land has been or will be reserved or dedicated by local government(s), donated by individuals, or acquired through advanced or hardship acquisition for use as highway right-of-way for any alternative under consideration, the draft EIS should identify the status and extent of such property and the alternatives involved. Where such lands are reserved, the EIS should state that the reserved lands will not influence the alternative to be selected.

Development of more detailed design for some aspects (e.g., Section 4(f), COE or CG permits, noise, wetlands, etc.) of one or more alternatives may be necessary during preparation of the draft and final EIS in order to evaluate impacts or mitigation measures or to address issues raised by other agencies or the public. However, care should be taken to avoid unnecessarily specifying features that preclude cost-effective final design options.

All reasonable alternatives under consideration (including the no-build) need to be developed to a comparable level of detail in the draft EIS so that their comparative merits may be evaluated (40 CFR 1502.14(b) and (d)). In those situations where the HA has officially identified a "preferred" alternative based on its early coordination and environmental studies, the HA should so indicate in the draft EIS. In these instances, the draft EIS should include a statement indicating that the final selection of an alternative will not be made until the alternatives' impacts and comments on the draft EIS and from the public hearing (if held) have been fully evaluated. Where a preferred alternative has not been identified, the draft EIS should state that all reasonable alternatives are under consideration and that a decision will be made after the alternatives' impacts and comments on the draft EIS and from the public hearing (if held) have been fully evaluated.

The final EIS must identify the preferred alternative and should discuss the basis for its selection (23 CFR 771.125(a)(1)). The discussion should provide the information and rationale identified in Section VIII (Record of Decision), paragraph (B). If the preferred alternative is modified after the draft EIS, the final EIS should clearly identify the changes and discuss the reasons why any new impacts are not significant.

F. Affected Environment

This section provides a concise description of the existing social, economic, and environmental setting for the area affected by all alternatives presented in the EIS. Where possible, the description should be a single description for the general project area rather than a separate one for each alternative. The general population served and/or affected (city, county, etc.) by the proposed action should be identified by race, color, national origin, and age. Demographic data should be obtained from available secondary sources (e.g., census data, planning reports) unless more detailed information is necessary to address specific concerns. All socially, economically, and environmentally sensitive locations or features in the proposed project impact area (e.g., neighborhoods, elderly/minority/ ethnic groups, parks, hazardous material sites, historic resources, wetlands, etc.), should be identified on exhibits and briefly described in the text. However, it may be desirable to exclude from environmental documents the specific location of archeological sites to prevent vandalism.

To reduce paperwork and eliminate extraneous background material, the discussion should be limited to data, information, issues, and values which will have a bearing on possible impacts, mitigation measures, and on the selection of an alternative. Data and analyses should be commensurate with the importance of the impact, with the less important material summarized or referenced rather than be reproduced. Photographs, illustrations, and other graphics should be used with the

text to give a clear understanding of the area and the important issues. Other Federal activities that contribute to the significance of the proposed action's impacts should be described.

This section should also briefly describe the scope and status of the planning processes for the local jurisdictions and the project area. Maps of any adopted land use and transportation plans for these jurisdictions and the project area would be helpful in relating the proposed project to the planning processes.

G. Environmental Consequences

This section includes the probable beneficial and adverse social, economic, and environmental effects of alternatives under consideration and describes the measures proposed to mitigate adverse impacts. The information should have sufficient scientific and analytical substance to provide a basis for evaluating the comparative merits of the alternatives. The discussion of the proposed project impacts should not use the term significant in describing the level of impacts. There is no benefit to be gained from its use. If the term significant is used, however, it should be consistent with the CEQ definition and be supported by factual information.

There are two principal ways of preparing this section. One is to discuss the impacts and mitigation measures separately for each alternative with the alternatives as headings. The second (which is advantageous where there are few alternatives or where impacts are similar for the various alternatives) is to present this section with the impacts as the headings. Where appropriate, a sub-section should be included which discusses the general impacts and mitigation measures that are the same for the various alternatives under consideration. This would reduce or eliminate repetition under each of the alternative discussions. Charts, tables, maps, and other graphics illustrating comparisons between the alternatives (e.g., costs, residential displacements, noise impacts, etc.) are useful as a presentation technique.

When preparing the final EIS, the impacts and mitigation measures of the alternatives, particularly the preferred alternative, may need to be discussed in more detail to elaborate on information, firm-up commitments, or address issues raised following the draft EIS. The final EIS should also identify any new impacts (and their significance) resulting from modification of or identification of substantive new circumstances or information regarding the preferred alternative following the draft EIS circulation. Note: Where new significant impacts are identified a supplemental draft EIS is required (40 CFR 1502.9(c)).

The following information should be included in both the draft and final EIS for each reasonable alternative:

1. A summary of studies undertaken, any major assumptions made and supporting information on the validity of the methodology (where the methodology is not generally accepted as state-of-the-art).
2. Sufficient supporting information or results of analyses to establish the reasonableness of the conclusions on impacts.
3. A discussion of mitigation measures. These measures normally should be investigated in appropriate detail for each reasonable alternative so they can be identified in the draft EIS. The final EIS should identify, describe and analyze all proposed mitigation measures for the preferred alternative.

In addition to normal FHWA program monitoring of design and construction activities, special instances may arise when a formal program for monitoring impacts or implementation of mitigation measures will be appropriate. For example, monitoring ground or surface waters that are sources for drinking water supply; monitoring noise or vibration of nearby sensitive activities (e.g., hospitals, schools); or providing on-site professional archeologist to monitor excavation activities in highly sensitive archeological areas. In these instances, the final EIS should describe the monitoring program.

4. A discussion, evaluation and resolution of important issues on each alternative. If important issues raised by other agencies on the preferred alternative remain unresolved, the final EIS must identify those issues and the consultations and other efforts made to resolve them (23 CFR 771.125(a)(2)).

Listed below are potentially significant impacts most commonly encountered by highway projects. These factors should be discussed for each reasonable alternative where a potential for impact exists. This list is not all-inclusive and on specific projects there may be other impact areas that should be included.

5. Land Use Impacts

This discussion should identify the current development trends and the State and/or local government plans and policies on land use and growth in the area which will be impacted by the proposed project.

These plans and policies are normally reflected in the area's comprehensive development plan, and include land use, transportation, public facilities, housing, community services, and other areas.

The land use discussion should assess the consistency of the alternatives with the comprehensive development plans adopted for the area and (if applicable) other plans used in the development of the transportation plan required by Section 134. The secondary social, economic, and environmental impacts of any substantial, foreseeable, induced development should be presented for each alternative, including adverse effects on existing communities. Where possible, the distinction between planned and unplanned growth should be identified.

6. Farmland Impacts

Farmland includes 1) prime, 2) unique, 3) other than prime or unique that is of statewide importance, and 4) other than prime or unique that is of local importance.

The draft EIS should summarize the results of early consultation with the Soil Conservation Service (SCS) and, as appropriate, State and local agriculture agencies where any of the four specified types of farmland could be directly or indirectly impacted by any alternative under consideration. Where farmland would be impacted, the draft EIS should contain a map showing the location of all farmlands in the project impact area, discuss the impacts of the various alternatives and identify measures to avoid or reduce the impacts. Form AD 1006 (Farmland Conversion Impact Rating) should be processed, as appropriate, and a copy included in the draft EIS. Where the Land Evaluation and Site Assessment score (from Form AD 1006) is 160 points or greater, the draft EIS should discuss alternatives to avoid farmland impacts.

If avoidance is not possible, measures to minimize or reduce the impacts should be evaluated and, where appropriate, included in the proposed action.

7. Social Impacts

Where there are foreseeable impacts, the draft EIS should discuss the following items for each alternative commensurate with the level of impacts and to the extent they are distinguishable:

- (a) Changes in the neighborhoods or community cohesion for the various social groups as a result of the proposed action. These changes may be beneficial or adverse, and may include splitting neighborhoods, isolating a portion of a neighborhood or an ethnic group, generating new

development, changing property values, or separating residents from community facilities, etc.

(b) Changes in travel patterns and accessibility (e.g., vehicular, commuter, bicycle, or pedestrian).

(c) Impacts on school districts, recreation areas, churches, businesses, police and fire protection, etc. This should include both the direct impacts to these entities and the indirect impacts resulting from the displacement of households and businesses.

(d) Impacts of alternatives on highway and traffic safety as well as on overall public safety.

(e) General social groups specially benefited or harmed by the proposed project. The effects of a project on the elderly, handicapped, non drivers, transit-dependent, and minority and ethnic groups are of particular concern and should be described to the extent these effects can be reasonably predicted. Where impacts on a minority or ethnic population are likely to be an important issue, the EIS should contain the following information broken down by race, color, and national origin: the population of the study area, the number of displaced residents, the type and number of displaced businesses, and an estimate of the number of displaced employees in each business sector. Changes in ethnic or minority employment opportunities should be discussed and the relationship of the project to other Federal actions that may serve or adversely affect the ethnic or minority population should be identified.

The discussion should address whether any social group is disproportionately impacted and identify possible mitigation measures to avoid or minimize any adverse impacts. Secondary sources of information such as census and personal contact with community leaders supplemented by visual inspections normally should be used to obtain the data for this analysis. However, for projects with major community impacts, a survey of the affected area may be needed to identify the extent and severity of impacts on these social groups.

8. Relocation Impacts

The relocation information should be summarized in sufficient detail to adequately explain the relocation situation including anticipated problems and proposed solutions. Project relocation documents from which information is summarized should be

referenced in the draft EIS. Secondary sources of information such as census, economic reports, and contact with community leaders, supplemented by visual inspections (and, as appropriate, contact with local officials) may be used to obtain the data for this analysis. Where a proposed project will result in displacements, the following information regarding households and businesses should be discussed for each alternative under consideration commensurate with the level of impacts and to the extent they are likely to occur:

(a) An estimate of the number of households to be displaced, including the family characteristics (e.g., minority, ethnic, handicapped, elderly, large family, income level, and owner/tenant status). However, where there are very few displacees, information on race, ethnicity and income levels should not be included in the EIS to protect the privacy of those affected.

(b) A discussion comparing available (decent, safe, and sanitary) housing in the area with the housing needs of the displacees. The comparison should include (1) price ranges, (2) sizes (number of bedrooms), and (3) occupancy status (owner/tenant).

(c) A discussion of any affected neighborhoods, public facilities, non-profit organizations, and families having special composition (e.g., ethnic, minority, elderly, handicapped, or other factors) which may require special relocation considerations and the measures proposed to resolve these relocation concerns.

(d) A discussion of the measures to be taken where the existing housing inventory is insufficient, does not meet relocation standards, or is not within the financial capability of the displacees. A commitment to last resort housing should be included when sufficient comparable replacement housing may not be available.

(e) An estimate of the numbers, descriptions, types of occupancy (owner/tenant), and sizes (number of employees) of businesses and farms to be displaced. Additionally, the discussion should identify (1) sites available in the area to which the affected businesses may relocate, (2) likelihood of such relocation, and (3) potential impacts on individual businesses and farms caused by displacement or proximity of the proposed highway if not displaced.

(f) A discussion of the results of contacts, if any, with local governments, organizations, groups, and individuals

regarding residential and business relocation impacts, including any measures or coordination needed to reduce general and/or specific impacts. These contacts are encouraged for projects with large numbers of relocatees or complex relocation requirements. Specific financial and incentive programs or opportunities (beyond those provided by the Uniform Relocation Act) to residential and business relocatees to minimize impacts may be identified, if available through other agencies or organizations.

(g) A statement that (1) the acquisition and relocation program will be conducted in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and (2) relocation resources are available to all residential and business relocatees without discrimination.

9. Economic Impacts

Where there are foreseeable economic impacts, the draft EIS should discuss the following for each alternative commensurate with the level of impacts:

(a) The economic impacts on the regional and/or local economy such as the effects of the project on development, tax revenues and public expenditures, employment opportunities, accessibility, and retail sales. Where substantial impacts on the economic viability of affected municipalities are likely to occur, they should also be discussed together with a summary of any efforts undertaken and agreements reached for using the transportation investment to support both public and private economic development plans. To the extent possible, this discussion should rely upon results of coordination with and views of affected State, county, and city officials and upon studies performed under Section 134.

(b) The impacts on the economic vitality of existing highway-related businesses (e.g., gasoline stations, motels, etc.) and the resultant impact, if any, on the local economy. For example, the loss of business or employment resulting from building an alternative on new location bypassing a local community.

(c) Impacts of the proposed action on established business districts, and any opportunities to minimize or reduce such impacts by the public and/or private sectors. This concern is likely to occur on a project that might lead to or support

new large commercial development outside of a central business district.

10. Joint Development

Where appropriate, the draft EIS should identify and discuss those joint development measures that will preserve or enhance an affected community's social, economic, environmental, and visual values. This discussion may be presented separately or combined with the land use and/or social impacts presentations. The benefits to be derived, those who will benefit (communities, social groups, etc.), and the entities responsible for maintaining the measures should be identified.

11. Considerations Relating to Pedestrians and Bicyclists

Where current pedestrian or bicycle facilities or indications of use are identified, the draft EIS should discuss the current and anticipated use of the facilities, the potential impacts of the affected alternatives, and proposed measures, if any, to avoid or reduce adverse impacts to the facility(ies) and its users. Where new facilities are proposed as a part of the proposed highway project, the EIS should include sufficient information to explain the basis for providing the facilities (e.g., proposed bicycle facility is a link in the local plan or sidewalks will reduce project access impact to the community). The final EIS should identify those facilities to be included in the preferred alternative. Where the preferred alternative would sever an existing major route for non-motorized transportation traffic, the proposed project needs to provide a reasonably alternative route or demonstrate that such a route exists (23 U.S.C. 109(n)). To the fullest extent possible, this needs to be described in the final EIS.

8. Air Quality Impacts

The draft EIS should contain a brief discussion of the transportation-related air quality concerns in the project area and a summary of the project-related carbon monoxide (CO) analysis if such analysis is performed. The following information should be presented, as appropriate.

(a) Mesoscale Concerns: Ozone (O₃), Hydrocarbons (HC), and Nitrogen Oxide (NO_x) air quality concerns are regional in nature and as such meaningful evaluation on a project-by-project basis is not possible. Where these pollutants are an issue, the air quality emissions inventories in the State Implementation Plan (SIP) should be referenced and briefly summarized in the draft EIS. Further, the relationship of the project to the SIP should be described in the draft EIS by including one of the following statements:

1 This project is in an area where the SIP does not contain any transportation control measures. Therefore, the conformity procedures of 23 CFR 770 do not apply to this project.

2 This project is in an area that has transportation control measures in the SIP that was (conditionally) approved by the Environmental Protection Agency (EPA) on (date). The FHWA has determined that both the transportation plan and the transportation improvement program conform to the SIP. The FHWA has determined that this project is included in the transportation improvement program for the (indicate 3C planning area). Therefore, pursuant to 23 CFR 770, this project conforms to the SIP.

Under certain circumstances, neither of these statements will precisely fit the situation and may need to be modified. Additionally, if the project is a Transportation Control Measure from the SIP, this should be highlighted to emphasize the project's air quality benefits.

(b) Microscale Concerns: Carbon monoxide is a project-related concern and as such should be evaluated in the draft EIS. A microscale CO analysis is unnecessary where such impacts (project CO contribution plus background) can be judged to be well below the 1- and 8-hour National Ambient Air Quality Standards (or other applicable State or local standards). This judgment may be based on (1) previous analyses for similar projects; (2) previous general analyses for various classes of projects; or (3) simplified graphical or "look-up" table evaluations. In these cases, a brief statement stating the basis for the judgment is sufficient.

For those projects where a microscale CO analysis is performed, each reasonable alternative should be analyzed for the estimated time of completion and design year. A brief summary of the methodologies and assumptions used should be included in the draft EIS. Lengthy discussions, if needed, should be included in a separate technical report and referenced in the EIS. Total CO concentrations (project contribution plus estimated background) at identified reasonable receptors for each alternative should be reported. A comparison should be made between alternatives and with applicable State and national standards. Use of a table for this comparison is recommended for clarity.

As long as the total predicted 1-hour CO concentration is less than 9 ppm (the 8-hour CO standard), no separate 8-hour analysis is necessary. If the 1-hour CO concentration is greater than 9 ppm, an 8-hour analysis should be performed. Where the preferred alternative would result in violations of the 1 or 8-hour CO standards, an effort should be made to develop reasonable mitigation measures through early coordination between FHWA, EPA, and appropriate State and local highway and air quality agencies. The final EIS should discuss the proposed mitigation measures and include evidence of the coordination.

12. Noise Impacts

The draft EIS should contain a summary of the noise analysis including the following for each alternative under detailed study:

(a) A brief description of noise sensitive areas (residences, businesses, schools, parks, etc.), including information on the number and types of activities that may be affected. This should include developed lands and undeveloped lands for which development is planned, designed, and programmed.

(b) The extent of the impact (in decibels) at each sensitive area. This includes a comparison of the predicted noise levels with both the FHWA noise abatement criteria and the existing noise levels. (Traffic noise impacts occur when the predicted traffic noise levels approach or exceed the noise abatement criteria or when they substantially exceed the existing noise levels). Where there is a substantial increase in noise levels, the HA should identify the criterion used for defining "substantial increase." Use of a table for this comparison is recommended for clarity.

(c) Noise abatement measures that have been considered for each impacted area and those measures that are reasonable and feasible and that would "likely" be incorporated into the proposed project. Estimated costs, decibel reductions and height and length of barriers should be shown for all abatement measures.

Where it is desirable to qualify the term "likely," the following statement or similar wording would be appropriate. "Based on the studies completed to date, the State intends to install noise abatement measures in the form of a barrier at (location(s)). These preliminary indications of likely abatement measures are based upon preliminary design for a barrier of _____ high and

_____ long and a cost of \$_____ that will reduce the noise level by _____ dBA for _____ residences (businesses, schools, parks, etc.). (Where there is more than one barrier, provide information for each one.) If during final design these conditions substantially change, the abatement measures might not be provided. A final decision on the installation of abatement measure(s) will be made upon completion of the project design and the public involvement process."

(d) Noise impacts for which no prudent solution is reasonably available and the reasons why.

13. Water Quality Impacts

The draft EIS should include summaries of analyses and consultations with the State and/or local agency responsible for water quality. Coordination with the EPA under the Federal Clean Water Act may also provide assistance in this area. The discussion should include sufficient information to describe the ambient conditions of streams and water bodies that are likely to be impacted and identify the potential impacts of each alternative and proposed mitigation measures. Under normal circumstances, existing data may be used to describe ambient conditions. The inclusion of water quality data spanning several years is encouraged to reflect trends.

The draft EIS should also identify any locations where roadway runoff or other non point source pollution may have an adverse impact on sensitive water resources such as water supply reservoirs, ground water recharge areas, and high quality streams. The 1981 FHWA research report entitled "Constituents of Highway Runoff," the 1985 report entitled "Management Practices for Mitigation of Highway Stormwater Runoff Pollution," and the 1987 report entitled "Effects of Highway Runoff on Receiving Waters" contain procedures for estimating pollutant loading from highway runoff and would be helpful in determining the level of potential impacts and appropriate mitigative measures. The draft EIS should identify the potential impacts of each alternative and proposed mitigation measures.

Where an area designated as principal or sole-source aquifer under Section 1424(e) of the Safe Drinking Water Act may be impacted by a proposed project, early coordination with EPA will assist in identifying potential impacts. The EPA will furnish information on whether any of the alternatives affect the aquifer. This coordination should also identify any potential impacts to the critical aquifer protection area (CAPA), if designated, within affected sole-source aquifers. If none of the alternatives affect the aquifer, the requirements of the Safe Drinking Water Act are

satisfied. If an alternative is selected which affects the aquifer, a design must be developed to assure, to the satisfaction of EPA, that it will not contaminate the aquifer (40 CFR 149). The draft EIS should document coordination with EPA and identify its position on the impacts of the various alternatives. The final EIS should show that EPA's concerns on the preferred alternative have been resolved.

Wellhead protection areas were authorized by the 1986 Amendments to the Safe Drinking Water Act. Each State will develop State wellhead protection plans with final approval by EPA. When a proposed project encroaches on a wellhead protection area, the draft EIS should identify the area, the potential impact of each alternative and proposed mitigation measures. Coordination with the State agency responsible for the protection plan will aid in identifying the areas, impacts and mitigation. If the preferred alternative impacts these areas, the final EIS should document that it complies with the approved State wellhead protection plan.

14. Permits

If a facility such as a safety rest area is proposed and it will have a point source discharge, a Section 402 permit will be required for point source discharge (40 CFR 122). The draft EIS should discuss potential adverse impacts resulting from such proposed facilities and identify proposed mitigation measures. The need for a Section 402 permit and Section 401 water quality certification should be identified in the draft EIS.

For proposed actions requiring a Section 404 or Section 10 (Corps of Engineers) permit, the draft EIS should identify by alternative the general location of each dredge or fill activity, discuss the potential adverse impacts, identify proposed mitigation measures (if not addressed elsewhere in the draft EIS), and include evidence of coordination with the Corps of Engineers (in accordance with the U.S. DOT/Corps of Engineers Memorandum of Agreement) and appropriate Federal, State and local resource agencies, and State and local water quality agencies. Where the preferred alternative requires an individual Section 404 or Section 10 permit, the final EIS should identify for each permit activity the approximate quantities of dredge or fill material, general construction grades and proposed mitigation measures.

For proposed actions requiring Section 9 (U.S. Coast Guard bridge) permits, the draft EIS should identify by alternative the location of the permit activity, potential impacts to navigation and the environment (if not addressed elsewhere in the document), proposed mitigation measures and evidence coordination with the U.S. Coast Guard (in accordance with the FHWA/U.S. Coast

Guard Memorandum of Understanding). Where the preferred alternative requires a Section 9 permit, the final EIS should identify for each permit activity the proposed horizontal and vertical navigational clearances and include an exhibit showing the various dimensions.

For all permit activities the final EIS should include evidence that every reasonable effort has been made to resolve the issues raised by other agencies regarding the permit activities. If important issues remain unresolved, the final EIS must identify those issues, the positions of the respective agencies on the issues and the consultations and other efforts made to resolve them (23 CFR 771.125(a)).

15. Wetland Impacts

When an alternative will impact wetlands the draft EIS should (1) identify the type, quality, and function of wetlands involved, (2) describe the impacts to the wetlands, (3) evaluate alternatives which would avoid these wetlands, and (4) identify practicable measures to minimize harm to the wetlands. Wetlands should be identified by using the definition of 33 CFR 328.3(b) (issued on November 13, 1986) which requires the presence of hydrophytic vegetation, hydric soils and wetland hydrology. Exhibits showing wetlands in the project impact area in relation to the alternatives, should be provided.

In evaluating the impact of the proposed project on wetlands, the following two items should be addressed: (1) the importance of the impacted wetland(s) and (2) the severity of this impact. Merely listing the number of acres taken by the various alternatives of a highway proposal does not provide sufficient information upon which to determine the degree of impact on the wetland ecosystem. The wetlands analysis should be sufficiently detailed to provide an understanding of these two elements.

In evaluating the importance of the wetlands, the analysis should consider such factors as: (1) the primary functions of the wetlands (e.g., flood control, wildlife habitat, ground water recharge, etc.), (2) the relative importance of these functions to the total wetland resource of the area, and (3) other factors such as uniqueness that may contribute to the wetlands importance.

In determining the wetland impact, the analysis should show the project's effects on the stability and quality of the wetland(s). This analysis should consider the short- and long-term effects on the wetlands and the importance of any loss such as: (1) flood control capacity, (2) shore line anchorage potential, (3) water pollution abatement capacity, and (4) fish and wildlife habitat value. The methodology developed by FHWA and described in reports

numbered FHWA-IP-82-23 and FHWA IP-82-24, "A Method for Wetland Functional Assessment Volumes I and II," is recommended for use in conducting this analysis. Knowing the importance of the wetlands involved and the degree of the impact, the HA and FHWA will be in a better position to determine the mitigation efforts necessary to minimize harm to these wetlands. Mitigation measures that should be considered include preservation and improvement of existing wetlands and creation of new wetlands (consistent with 23 CFR 777).

If the preferred alternative is located in wetlands, to the fullest extent possible, the final EIS needs to contain the finding required by Executive Order 11990 that there are no practicable alternatives to construction in wetlands. Where the finding is included, approval of the final EIS will document compliance with the Executive Order 11990 requirements (23 CFR 771.125(a)(1)). The finding should be included in a separate subsection entitled "Only Practicable Alternative Finding" and should be supported by the following information:

- (a) a reference to Executive Order 11990;
- (b) an explanation why there are no practicable alternatives to the proposed action;
- (c) an explanation why the proposed action includes all practicable measures to minimize harm to wetlands; and
- (d) a concluding statement that: "Based upon the above considerations, it is determined that there is no practicable alternative to the proposed construction in wetlands and that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use."

16. Water Body Modification and Wildlife Impacts

For each alternative under detailed study the draft EIS should contain exhibits and discussions identifying the location and extent of water body modifications (e.g., impoundment, relocation, channel deepening, filling, etc.). The use of the stream or body of water for recreation, water supply, or other purposes should be identified. Impacts to fish and wildlife resulting from the loss degradation, or modification of aquatic or terrestrial habitat should also be discussed. The results of coordination with appropriate Federal, State and local agencies should be documented in the draft EIS. For example, coordination with FWS under the Fish and Wildlife Coordination Act of 1958.

17. Floodplain Impacts

National Flood Insurance Program (NFIP) maps or, if NFIP maps are not available, information developed by the highway agency should be used to determine whether an alternative will encroach on the base (100-year) floodplain. The location hydraulic studies required by 23 CFR 650, Subpart A, must include a discussion of the following items commensurate with the level of risk or environmental impact, for each alternative which encroaches on base floodplains or would support base floodplain development:

- (a) The flooding risks;
- (b) The impacts on natural and beneficial floodplain values;
- (c) The support of probable incompatible floodplain development (i.e., any development that is not consistent with a community's floodplain development plan);
- (d) The measures to minimize floodplain impacts; and
- (e) The measures to restore and preserve the natural and beneficial floodplain values.

The draft EIS should briefly summarize the results of the location hydraulic studies. The summary should identify the number of encroachments and any support of incompatible floodplain developments and their potential impacts. Where an encroachment or support of incompatible floodplain development results in substantial impacts, the draft EIS should provide more detailed information on the location, impacts and appropriate mitigation measures. In addition, if any alternative (1) results in a floodplain encroachment or supports incompatible floodplain development having significant impacts, or (2) requires a commitment to a particular structure size or type, the draft EIS needs to include an evaluation and discussion of practicable alternatives to the structure or to the significant encroachment. The draft EIS should include exhibits which display the alternatives, the base floodplains and, where applicable, the regulatory floodways.

If the preferred alternative includes a floodplain encroachment having significant impacts, the final EIS must include a finding that it is the only practicable alternative as required by 23 CFR 650, Subpart A. The finding should refer to Executive Order 11988 and 23 CFR 650, Subpart A. It should be included in a separate subsection entitled "Only Practicable Alternative Finding" and must be supported by the following information.

(a) The reasons why the proposed action must be located in the floodplain;

(b) The alternatives considered and why they were not practicable; and

(c) A statement indicating whether the action conforms to applicable State or local floodplain protection standards.

For each alternative encroaching on a designated or proposed regulatory floodway, the draft EIS should provide a preliminary indication of whether the encroachment would be consistent with or require a revision to the regulatory floodway. Engineering and environmental analyses should be undertaken, commensurate with the level of encroachment, to permit the consistency evaluation and identify impacts. Coordination with the Federal Emergency Management Agency (FEMA) and appropriate State and local government agencies should be undertaken for each floodway encroachment. If the preferred alternative encroaches on a regulatory floodway, the final EIS should discuss the consistency of the action with the regulatory floodway. If a floodway revision is necessary, the EIS should include evidence from FEMA and local or State agency indicating that such revision would be acceptable.

18. Wild and Scenic Rivers

If the proposed action could have foreseeable adverse effects on a river on the National Wild and Scenic Rivers System or a river under study for designation to the National Wild and Scenic Rivers System, the draft EIS should identify early coordination undertaken with the agency responsible for managing the listed or study river (i.e., National Park Service (NPS), Fish and Wildlife Service (FWS), Bureau of Land Management (BLM), or Forest Service (FS)). For each alternative under consideration, the EIS should identify the potential adverse effects on the natural, cultural, and recreational values of the listed or studied river. Adverse effects include alteration of the free-flowing nature of the river, alteration of the setting or deterioration of water quality. If it is determined that any of the alternatives could foreclose options to designate a study river under the Act, or adversely affect those qualities of a listed river for which it was designated, to the fullest extent possible, the draft EIS needs to reflect consultation with the managing agency on avoiding or mitigating the impacts (23 CFR 771.123(c)). The final EIS should identify measures that will be included in the preferred alternative to avoid or mitigate such impacts.

Publicly owned waters of designated wild and scenic rivers are protected by Section 4(f). Additionally, public lands adjacent to a Wild and Scenic River may be subject to Section 4(f) protection. An examination of any adopted or proposed management plan for a listed river should be helpful in making the determination on applicability of Section 4(f). For each alternative that takes such land, coordination with the agency responsible for managing the river (either NPS, FWS, BLM, or FS) will provide information on the management plan, specific affected land uses, and any necessary Section 4(f) coordination.

19. Coastal Barriers

The Coastal Barrier Resources Act (CBRA) establishes certain coastal areas to be protected by prohibiting the expenditure of Federal funds for new and expanded facilities within designated coastal barrier units. When a proposed project impacts a coastal barrier unit, the draft EIS should: include a map showing the relationship of each alternative to the unit(s); identify direct and indirect impacts to the unit(s), quantifying and describing the impacts as appropriate; discuss the results of early coordination with FWS, identifying any issues raised and how they were addressed, and; identify any alternative which (if selected) would require an exception under the Act. Any issues identified or exceptions required for the preferred alternative should be resolved prior to its selection. This resolution should be documented in the final EIS.

20. Coastal Zone Impacts

Where the proposed action is within, or is likely to affect land or water uses within the area covered by a State Coastal Zone Management Program (CZMP) approved by the Department of Commerce, the draft EIS should briefly describe the portion of the affected CZMP plan, identify the potential impacts, and include evidence of coordination with the State Coastal Zone Management agency or appropriate local agency. The final EIS should include the State Coastal Zone Management agency's determination on consistency with the State CZMP plan. (In some States, an agency will make a consistency determination only after the final EIS is approved, but will provide a preliminary indication before the final EIS that the project is "not inconsistent" or "appears to be consistent" with the plan.) (For direct Federal actions, the final EIS should include the lead agency's consistency determination and agreement by the State CZM agency.) If the preferred alternative is inconsistent with the State's approved CZMP, it can be Federally funded only if the Secretary of Commerce makes a finding that the proposed action is consistent with the purpose or objectives of the CZM Act or is necessary in the interest of national security. To the fullest extent possible,

such a finding needs to be included in the final EIS. If the finding is denied, the action is not eligible for Federal funding unless modified in such a manner to remove the inconsistency finding. The final EIS should document such results.

21. Threatened or Endangered Species

The HA must obtain information from the FWS of the DOI and/or the National Marine Fisheries Service (NMFS) of the Department of Commerce to determine the presence or absence of listed and proposed threatened or endangered species and designated and proposed critical habitat in the proposed project area (50 CFR 402.12(c)). The information may be (1) a published geographical list of such species or critical habitat; (2) a project-specific notification of a list of such species or critical habitat; or (3) substantiated information from other credible sources. Where the information is obtained from a published geographical list the reasons why this would satisfy the coordination with DOI should be explained. If there are no species or critical habitat in the proposed project area, the Endangered Species Act requirements have been met. The results of this coordination should be included in the draft EIS.

When a proposed species or a proposed critical habitat may be present in the proposed project area, an evaluation or, if appropriate, a biological assessment is made on the potential impacts to identify whether any such species or critical habitat are likely to be adversely affected by the project. Informal consultation with FWS and/or NMFS should be undertaken during the evaluation. The draft EIS should include exhibits showing the location of the species or habitat, summarize the evaluation and potential impacts, identify proposed mitigation measures, and evidence coordination with FWS and/or NMFS. If the project is likely to jeopardize the continued existence of any proposed species or result in the destruction or adverse modification of proposed critical habitat, the HA in consultation with the FHWA must confer with FWS and/or NMFS to attempt to resolve potential conflicts by avoiding, minimizing, or reducing the project impacts (50 CFR 402.10(a)). If the preferred alternative is likely to jeopardize the continued existence of any proposed species or result in the destruction or adverse modification of proposed critical habitat, a conference with FWS and/or NMFS must be held to assist in identifying and resolving potential conflicts. To the fullest extent possible, the final EIS needs to summarize the results of the conference and identify reasonable and prudent alternatives to avoid the jeopardy to such proposed species or critical habitat. If no alternatives exist, the final EIS should explain the reasons why and identify any proposed mitigation measures to minimize adverse effects.

When a listed species or a designated critical habitat may be present in the proposed project area, a biological assessment must be prepared to identify any such species or habitat which are likely to be adversely affected by the proposed project (50 CFR 402.12). Informal consultation should be undertaken or, if desirable, a conference held with FWS and/or NMFS during preparation of the biological assessment. The draft EIS should summarize the following data from the biological assessment:

- (a) The species distribution, habitat needs, and other biological requirements;
- (b) The affected areas of the proposed project;
- (c) Possible impacts to the species including opinions of recognized experts on the species at issue;
- (d) Measures to avoid or minimize adverse impacts; and
- (e) Results of consultation with FWS and/or NMFS.

In selecting an alternative, jeopardy to a listed species or the destruction or adverse modification of designated critical habitat must be avoided (50 CFR 402.01(a)). If the biological assessment indicates that there are no listed species or critical habitat present that are likely to be adversely affected by the preferred alternative, the final EIS should evidence concurrence by the FWS and/or NMFS in such a determination and identify any proposed mitigation for the preferred alternative.

If the results of the biological assessment or consultation with FWS and/or NMFS show that the preferred alternative is likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat, to the fullest extent possible, the final EIS needs to contain: (1) a summary of the biological assessment (see data above for draft EIS); (2) a summary of the steps taken, including alternatives or measures evaluated and conferences and consultations held, to resolve the project's conflicts with the listed species or critical habitat; (3) a copy of the biological opinion; (4) a request for an exemption from the Endangered Species Act; (5) the results of the exemption request; and (6) a statement that (if the exemption is denied) the action is not eligible for Federal funding.

22. Historic and Archeological Preservation

The draft EIS should contain a discussion demonstrating that historic and archeological resources have been identified and evaluated in accordance with the requirements of 36 CFR 800.4 for each alternative under consideration. The information and level of effort needed to identify and evaluate historic and archeological resources will vary from project to project as determined by the FHWA after considering existing information, the views of the SHPO and the Secretary of Interior's "Standards and Guidelines for Archeology and Historic Preservation." The information for newly identified historic resources should be sufficient to determine their significance and eligibility for the National Register of Historic Places. The information for archeological resources should be sufficient to identify whether each warrants preservation in place or whether it is important chiefly because of what can be learned by data recovery and has minimal value for preservation in place. Where archeological resources are not a major factor in the selection of a preferred alternative, the determination of eligibility for the National Register of newly identified archeological resources may be deferred until after circulation of the draft EIS.

The draft EIS discussion should briefly summarize the methodologies used in identifying historic and archeological resources. Because Section 4(f) of the DOT Act applies to the use of historic resources on or eligible for the National Register and to archeological resources on or eligible for the National Register and which warrant preservation in place, the draft EIS should describe the historical resources listed in or eligible for the National Register and identify any archeological resources that warrant preservation in place. The draft EIS should summarize the impacts of each alternative on and proposed mitigation measures for each resource. The document should evidence coordination with the SHPO on the significance of newly identified historic and archeological resources, the eligibility of historic resources for the National Register, and the effects of each alternative on both listed and eligible historic resources. Where the draft EIS discusses eligibility for the National Register of archeological resources, the coordination with the SHPO on eligibility and effect should address both historic and archeological resources.

The draft EIS can serve as a vehicle for affording the Advisory Council on Historic Preservation (ACHP) an opportunity to comment pursuant to Section 106 requirements if the document contains the necessary information required by 36 CFR 800.8. The draft EIS transmittal letter to the ACHP should specifically request its comments pursuant to 36 CFR 800.6.

To the fullest extent possible, the final EIS needs to demonstrate that all the requirements of 36 CFR 800 have been met. If the preferred alternative has no effect on historic or archeological resources on or eligible for the National Register, the final EIS

should indicate coordination with and agreement by the SHPO. If the preferred alternative has an effect on a resource on or eligible for the National Register, the final EIS should contain (a) a determination of no adverse effect concurred in by the Advisory Council on Historic Preservation, (b) an executed memorandum of agreement (MOA), or (c) in the case of a rare situation where FHWA is unable to conclude the MOA, a copy of comments transmitted from the ACHP to the FHWA and the FHWA response to those comments.

The proposed use of land from an historic resource on or eligible for the National Register will normally require an evaluation and approval under Section 4(f) of the DOT Act. Section 4(f) also applies to all archeological sites on or eligible for the National Register and which warrant preservation in place. (See Section IX for information on Section 4(f) evaluation.)

23. Hazardous Waste Sites

Hazardous waste sites are regulated by the Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). During early planning, the location of permitted and non-regulated hazardous waste sites should be identified. Early coordination with the appropriate Regional Office of the EPA and the appropriate State agency will aid in identifying known or potential hazardous waste sites. If known or potential waste sites are identified, the locations should be clearly marked on a map showing their relationship to the alternatives under consideration. If a known or potential hazardous waste site is affected by an alternative, information about the site, the potential involvement, impacts and public health concerns of the affected alternative(s), and the proposed mitigation measures to eliminate or minimize impacts or public health concerns should be discussed in the draft EIS.

If the preferred alternative impacts a known or potential hazardous waste site, the final EIS should address and resolve the issues raised by the public and government agencies.

24. Visual Impacts

The draft EIS should state whether the project alternatives have a potential for visual quality impacts. When this potential exists, the draft EIS should identify the impacts to the existing visual resource, the relationship of the impacts to potential viewers of and from the project, as well as measures to avoid, minimize, or reduce the adverse impacts. When there is potential for visual quality impacts, the draft EIS should explain the consideration given to design quality, art, and architecture in the project

planning. These values may be particularly important for facilities located in visually sensitive urban or rural settings. When a proposed project will include features associated with design quality, art or architecture, the draft EIS should be circulated to officially designated State and local arts councils and, as appropriate, other organizations with an interest in design, art, and architecture. The final EIS should identify any proposed mitigation for the preferred alternative.

25. Energy

Except for large-scale projects, a detailed energy analysis including computations of BTU requirements, etc., is not needed. For most projects, the draft EIS should discuss in general terms the construction and operational energy requirements and conservation potential of various alternatives under consideration. The discussion should be reasonable and supportable. It might recognize that the energy requirements of various construction alternatives are similar and are generally greater than the energy requirements of the no-build alternative. Additionally, the discussion could point out that the post-construction, operational energy requirements of the facility should be less with the build alternative as opposed to the no-build alternative. In such a situation, one might conclude that the savings in operational energy requirements would more than offset construction energy requirements and thus, in the long term, result in a net savings in energy usage.

For large-scale projects with potentially substantial energy impacts, the draft EIS should discuss the major direct and/or indirect energy impacts and conservation potential of each alternative. Direct energy impacts refer to the energy consumed by vehicles using the facility. Indirect impacts include construction energy and such items as the effects of any changes in automobile usage. The alternative's relationship and consistency with a State and/or regional energy plan, if one exists, should also be indicated.

The final EIS should identify any energy conservation measures that will be implemented as a part of the preferred alternative. Measures to conserve energy include the use of high-occupancy vehicle incentives and measures to improve traffic flow.

26. Construction Impacts

The draft EIS should discuss the potential adverse impacts (particularly air, noise, water, traffic congestion, detours, safety, visual, etc.) associated with construction of each alternative and identify appropriate mitigation measures. Also, where the impacts of obtaining borrow or disposal of waste material are important

issues, they should be discussed in the draft EIS along with any proposed measures to minimize these impacts. The final EIS should identify any proposed mitigation for the preferred alternative.

27. The Relationship Between Local Short-term Uses of Man's Environment and the Maintenance and Enhancement of Long-term Productivity

The EIS should discuss in general terms the proposed action's relationship of local short-term impacts and use of resources, and the maintenance and enhancement of long-term productivity. This general discussion might recognize that the build alternatives would have similar impacts. The discussion should point out that transportation improvements are based on State and/or local comprehensive planning which consider(s) the need for present and future traffic requirements within the context of present and future land use development. In such a situation, one might then conclude that the local short-term impacts and use of resources by the proposed action is consistent with the maintenance and enhancement of long-term productivity for the local area, State, etc.

28. Any Irreversible and Irretrievable Commitments of Resources Which Would be Involved in the Proposed Action

The EIS should discuss in general terms the proposed action's irreversible and irretrievable commitment of resources. This general discussion might recognize that the build alternatives would require a similar commitment of natural, physical, human, and fiscal resources. An example of such discussion would be as follows:

"Implementation of the proposed action involves a commitment of a range of natural, physical, human, and fiscal resources. Land used in the construction of the proposed facility is considered an irreversible commitment during the time period that the land is used for a highway facility. However, if a greater need arises for use of the land or if the highway facility is no longer needed, the land can be converted to another use. At present, there is no reason to believe such a conversion will ever be necessary or desirable.

Considerable amounts of fossil fuels, labor, and highway construction materials such as cement, aggregate, and bituminous material are expended. Additionally, large amounts of labor and natural resources are used in the fabrication and preparation of construction materials. These materials are generally not retrievable. However, they are not in short supply and their use will not have an adverse effect upon continued availability of these

resources. Any construction will also require a substantial one-time expenditure of both State and Federal funds which are not retrievable.

The commitment of these resources is based on the concept that residents in the immediate area, State, and region will benefit by the improved quality of the transportation system. These benefits will consist of improved accessibility and safety, savings in time, and greater availability of quality services which are anticipated to outweigh the commitment of these resources."

H. List of Preparers

This section should include lists of:

1. State (and local agency) personnel, including consultants, who were primarily responsible for preparing the EIS or performing environmental studies, and a brief summary of their qualifications, including educational background and experience.
 2. The FHWA personnel primarily responsible for preparation or review of the EIS and their qualifications.
 3. The areas of EIS responsibility for each preparer.
- I. List of Agencies, Organizations, and Persons to Whom Copies of the Statement are Sent

Draft EIS: List all entities from which comments are being requested (40 CFR 1502.10). Final EIS: Identify those entities that submitted comments on the draft EIS and those receiving a copy of the final EIS (23 CFR 771.125(a) and (g)).

J. Comments and Coordination

1. The draft EIS should contain copies of pertinent correspondence with each cooperating agency, other agencies and the public and summarize: 1) the early coordination process, including scoping; 2) the meetings with community groups (including minority and non-minority interests) and individuals; and 3) the key issues and pertinent information received from the public and government agencies through these efforts.
2. The final EIS should include a copy of substantive comments from the U.S. Secretary of Transportation (OST), each cooperating agency, and other commenters on the draft EIS. Where the response is exceptionally voluminous the comments may be summarized. An appropriate response should be provided to each substantive comment. When the EIS text is revised as a result of the comments received, a copy of the comments should contain marginal references indicating where revisions were made, or the response to the comments should contain such references. The

response should adequately address the issue or concern raised by the commenter or, where substantive comments do not warrant further response, explain why they do not, and provide sufficient information to support that position.

The FHWA and the HA are not commenters within the meaning of NEPA and their comments on the draft EIS should not be included in the final EIS. However, the document should include adequate information for FHWA and the HA to ascertain the disposition of the comment(s).

3. The final EIS should (1) summarize the substantive comments on social, economic, environmental, and engineering issues made at the public hearing, if one is held, or the public involvement activities or which were otherwise considered and (2) discuss the consideration given to any substantive issue raised and provide sufficient information to support that position.
4. The final EIS should document compliance with requirements of all applicable environmental laws, Executive Orders, and other related requirements, such as Title VI of the Civil Rights Act of 1964. To the extent possible, all environmental issues should be resolved prior to the submission of the final EIS. When disagreement on project issues exists with another agency, coordination with the agency should be undertaken to resolve the issues. Where the issues cannot be resolved, the final EIS should identify any remaining unresolved issues, the steps taken to resolve the issues, and the positions of the respective parties. Where issues are resolved through this effort, the final EIS should demonstrate resolution of the concerns.

K. Index

The index should include important subjects and areas of major impacts so that a reviewer need not read the entire EIS to obtain information on a specific subject or impact.

L. Appendices

The EIS should briefly explain or summarize methodologies and results of technical analyses and research. Lengthy technical discussions should be contained in a technical report. Material prepared as appendices to the EIS should:

1. consist of material prepared specifically for the EIS;
2. consist of material which substantiates an analysis fundamental to the EIS;
3. be analytic and relevant to the decision to be made; and

4. be circulated with the EIS within FHWA, to EPA (Region), and to cooperating agencies and be readily available on request by other parties. Other reports and studies referred to in the EIS should be readily available for review or for copying at a convenient location.

VI. OPTIONS FOR PREPARING FINAL EISs

The CEQ regulations place heavy emphasis on reducing paperwork, avoiding unnecessary work, and producing documents that are useful to decision makers and to the public. With these objectives in mind, three different approaches to preparing final EISs are presented below. The first two approaches can be employed on any project. The third approach is restricted to the conditions specified by CEQ (40 CFR 1503.4(c)).

A. Traditional Approach

Under this approach, the final EIS incorporates the draft EIS (essentially in its entirety) with changes made as appropriate throughout the document to reflect the selection of an alternative, modifications to the project, updated information on the affected environment, changes in the assessment of impacts, the selection of mitigation measures, wetland and floodplain findings, the results of coordination, comments received on the draft EIS and responses to these comments, etc. Since so much information is carried over from the draft to the final, important changes are sometimes difficult for the reader to identify. Nevertheless, this is the approach most familiar to participants in the NEPA process.

B. Condensed Final EIS

This approach avoids repetition of material from the draft EIS by incorporating, by reference, the draft EIS. The final EIS is, thus, a much shorter document than under the traditional approach; however, it should afford the reader a complete overview of the project and its impacts on the human environment.

The crux of this approach is to briefly reference and summarize information from the draft EIS which has not changed and to focus the final EIS discussion on changes in the project, its setting, impacts, technical analysis, and mitigation that have occurred since the draft EIS was circulated. In addition, the condensed final EIS must identify the preferred alternative, explain the basis for its selection, describe coordination efforts, and include agency and public comments, responses to these comments, and any required findings or determinations (40 CFR 1502.14(e) and 23 CFR 771.125(a)).

The format of the final EIS should parallel the draft EIS. Each major section of the final EIS should briefly summarize the important information contained in the corresponding section of the draft, reference the section of the draft that provides more detailed information, and discuss any noteworthy changes that have occurred since the draft was circulated.

At the time that the final is circulated, an additional copy of the draft EIS need not be provided to those parties that received a copy of the draft EIS when it was circulated. Nevertheless, if, due to the passage of time or other reasons, it is likely that they will have disposed of their original copy of the draft EIS, then a copy of the draft EIS should be provided with the final. In any case, sufficient copies of the draft EIS should be on hand to satisfy requests for additional copies. Both the draft EIS and the condensed final EIS should be filed with EPA under a single final EIS cover sheet.

C. Abbreviated Version of Final EIS

The CEQ regulation (40 CFR 1503.4(c)) provides the opportunity to expedite the final EIS preparation where the only changes needed in the document are minor and consist of factual corrections and/or an explanation of why the comments received on the draft EIS do not warrant further response. In using this approach, care should be exercised to assure that the draft EIS contains sufficient information to make the findings in (2) below and that the number of errata sheets used to make required changes is small and that these errata sheets together with the draft EIS constitute a readable, understandable, full disclosure document. The final EIS should consist of the draft EIS and an attachment containing the following:

1. Errata sheets making any necessary corrections to the draft EIS;
2. A section identifying the preferred alternative and a discussion of the reasons it was selected. The following should also be included in this section where applicable:
 - (a) final Section 4(f) evaluations containing the information described in Section IX of these guidelines;
 - (b) wetland and finding(s);
 - (c) floodplain finding(s);
 - (d) a list of commitments for mitigation measures for the preferred alternative; and
3. Copies (or summaries) of comments received from circulation of the draft EIS and public hearing and responses thereto.

Only the attachment need be provided to parties who received a copy of the draft EIS, unless it is likely that they will have disposed of their original copy, in which case both the draft EIS and the attachment should be provided (40 CFR 1503.4(c)). Both the draft EIS and the attachment must be filed with EPA under a single final EIS cover sheet (40 CFR 1503.4(c)).

VII. DISTRIBUTION OF EISs AND SECTION 4(f) EVALUATIONS

A. Environmental Impact Statement

1. After clearance by FHWA, copies of all draft EISs must be made available to the public and circulated for comments by the HA to: all public officials, private interest groups, and members of the public known to have an interest in the proposed action or the draft EIS; all Federal, State, and local government agencies expected to have jurisdiction, responsibility, interest, or expertise in the proposed action; and States and Federal land management entities which may be affected by the proposed action or any of the alternatives (40 CFR 1502.19 and 1503.1). Distribution must be made no later than the time the document is filed with EPA for Federal Register publication and must allow for a minimum 45-day review period (40 CFR 1506.9 and 1506.10). Internal FHWA distribution of draft and final EISs is subject to change and is noted in memorandums to the Regional Administrators as requirements change.
2. Copies of all approved final EISs must be distributed to all Federal, State, and local agencies and private organizations, and members of the public who provided substantive comments on the draft EIS or who requested a copy (40 CFR 1502.19). Distribution must be made no later than the time the document is filed with EPA for Federal Register publication and must allow for a minimum 30-day review period before the Record of Decision is approved (40 CFR 1506.9 and 1506.10). Two copies of all approved EISs should be forwarded to the FHWA Washington Headquarters (HEV-11) for record keeping purposes.
3. Copies of all EISs should normally be distributed to EPA and DOI as follows, unless the agency has indicated to the FHWA offices the need for a different number of copies:

(a) The EPA Headquarters: five copies of the draft EIS and five copies of the final EIS (This is the "filing requirement" in Section 1506.9 of the CEQ regulation.) to the following address:

Environmental		Protection		Agency
Office	of	Federal		Activities
(A-104),	401	M	Street,	SW
Washington, D.C.	20460			

(b) The appropriate EPA Regional Office responsible for EPA's review pursuant to Section 309 of the Clean Air Act: five copies of the draft EIS and five copies of the final EIS.

(c) The DOI Headquarters to the following address:

U.S. Department of the Interior
Office of Environmental Project Review
Room 4239
18th and C Streets, NW
Washington, DC 20240

Note: DOI Headquarters will make distribution within its Department. While not required, advance distribution to DOI field offices may be helpful to expedite their review.

B. Section 4(f) Evaluation

If the Section 4(f) evaluation is included in a draft EIS, the DOI Headquarters does not need additional copies of the draft or final EIS/Section 4(f) evaluation. If the Section 4(f) evaluation is processed separately or as part of an EA, the DOI should receive seven copies of the draft Section 4(f) evaluation for coordination and seven copies of the final Section 4(f) evaluation for information. In addition to coordination with DOI, draft Section 4(f) evaluations must be coordinated with the officials having jurisdiction over the Section 4(f) property and the Department of Housing and Urban Development (HUD) and the United States Department of Agriculture (USDA) where these agencies have an interest in or jurisdiction over the affected Section 4(f) resource (23 CFR 771.135(i)). The point of coordination for HUD is the appropriate Regional Office and for USDA, the Forest Supervisor of the affected National Forest. One copy should be provided to the officials with jurisdiction and two copies should be submitted to HUD and USDA when coordination is required.

VIII. RECORD OF DECISION--FORMAT AND CONTENT

The Record of Decision (ROD) will explain the reasons for the project decision, summarize any mitigation measures that will be incorporated in the project, and document any required Section 4(f) approval. While cross-referencing and incorporation by reference of the final EIS (or final EIS supplement) and other documents are appropriate, the ROD must explain the basis for the project decision as completely as possible, based on the information contained in the EIS (40 CFR 1502.2). A draft ROD should be prepared by the HA and submitted to the Division Office with the final EIS. The following key items need to be addressed in the ROD:

A. Decision.

Identify the selected alternative. Reference to the final EIS (or final EIS supplement) may be used to reduce detail and repetition.

B. Alternatives Considered.

This information can be most clearly organized by briefly describing each alternative and explaining the balancing of values that formed the basis for the decision. This discussion must identify the environmentally preferred alternative(s) (i.e., the alternative(s) that causes the least damage to the biological and physical environment) (40 CFR 1505.2(b)). Where the selected alternative is other than the environmentally preferable alternative, the ROD should clearly state the reasons for not selecting the environmentally preferred alternative. If lands protected by Section 4(f) were a factor in the selection of the preferred alternative, the ROD should explain how the Section 4(f) lands influenced the selection.

The values (social, economic, environmental, cost-effectiveness, safety, traffic, service, community planning, etc.) which were important factors in the decision making process should be clearly identified along with the reasons some values were considered more important than others. The Federal-aid highway program mandate to provide safe and efficient transportation in the context of all other Federal requirements and the beneficial impacts of the proposed transportation improvements should be included in this balancing. While any decision represents a balancing of the values, the ROD should reflect the manner in which these values were considered in arriving at the decision.

C. Section 4(f).

Summarize the basis for any Section 4(f) approval when applicable (23 CFR 771.127(a)). The discussion should include the key information supporting such approval. Where appropriate, this information may be included in the alternatives discussion above and referenced in this paragraph to reduce repetition.

D. Measures to Minimize Harm.

Describe the specific measures adopted to minimize environmental harm and identify those standard measures (e.g., erosion control, appropriate for the proposed action). State whether all practicable measures to minimize environmental harm have been incorporated into the decision and, if not, why they were not (40 CFR 1505.2(c)).

E. Monitoring or Enforcement Program.

Describe any monitoring or enforcement program that has been adopted for specific mitigation measures, as outlined in the final EIS.

F. Comments on Final EIS.

All substantive comments received on the final EIS should be identified and given appropriate responses. Other comments should be summarized and responses provided where appropriate.

For record keeping purposes, a copy of the signed ROD should be provided to the Washington Headquarters (HEV-11). For a ROD approved by the Division Office, copies should be sent to both the Washington Headquarters and the Regional Office.

IX. SECTION 4(f) EVALUATIONS--FORMAT AND CONTENT

A Section 4(f) evaluation must be prepared for each location within a proposed project before the use of Section 4(f) land is approved (23 CFR 771.135(a)). For projects processed with an EIS or an EA/FONSI, the individual Section 4(f) evaluation should be included as a separate section of the document, and for projects processed as categorical exclusions, as a separate Section 4(f) evaluation document. Pertinent information from various sections of the EIS or EA/FONSI may be summarized in the Section 4(f) evaluation to reduce repetition. Where an issue on constructive use Section 4(f) arises and FHWA decides that Section 4(f) does not apply, the environmental document should contain sufficient analysis and information to demonstrate that the resource(s) is not substantially impaired.

The use of Section 4(f) land may involve concurrent requirements of other Federal agencies. Examples include consistency determinations for the use of public lands managed by the Bureau of Land Management, compatibility determinations for the use of land in the National Wildlife Refuge System and the National Park System, determinations of direct and adverse effects for Wild and Scenic Rivers, and approval of land conversions under Section 6(f) of the Land and Water Conservation Fund Act. The mitigation plan developed for the project should include measures that would satisfy the various requirements. For example, Section 6(f) directs the Department of the Interior (National Park Service) to assure that replacement lands of equal value, location, and usefulness are provided as conditions to approval of land conversions. Therefore, where a Section 6(f) land conversion is proposed for a highway project, replacement land will be necessary. Regardless of the mitigation proposed, the draft and final Section 4(f) evaluations should discuss the results of coordination with the public official having jurisdiction over the Section 4(f) land and document the National Park Service's position on the Section 6(f) land transfer, respectively.

A. Draft Section 4(f) Evaluation

The following format and content are suggested. The listed information should be included in the Section 4(f) evaluation, as applicable.

1. Proposed Action.

Where a separate Section 4(f) evaluation is prepared, describe the proposed project and explain the purpose and need for the project.

2. Section 4(f) Property.

Describe each Section 4(f) resource that would be used by any alternative under consideration. The following information should be provided:

(a) A detailed map or drawing of sufficient scale to identify the relationship of the alternatives to the Section 4(f) property.

(b) Size (acres or square feet) and location (maps or other exhibits such as photographs, sketches, etc.) of the affected Section 4(f) property.

(c) Ownership (city, county, State, etc.) and type of Section 4(f) property (park, recreation, historic, etc.).

(d) Function of or available activities on the property (ball playing, swimming, golfing, etc.).

(e) Description and location of all existing and planned facilities (ball diamonds, tennis courts, etc.).

(f) Access (pedestrian, vehicular) and usage (approximate number of users/visitors, etc.).

(g) Relationship to other similarly used lands in the vicinity.

(h) Applicable clauses affecting the ownership, such as lease, easement, covenants, restrictions, or conditions, including forfeiture.

(i) Unusual characteristics of the Section 4(f) property (flooding problems, terrain conditions, or other features) that either reduce or enhance the value of all or part of the property.

3. Impacts on the Section 4(f) Property(ies).

Discuss the impacts on the Section 4(f) property for each alternative (e.g., amount of land to be used, facilities and functions affected, noise, air pollution, visual, etc.). Where an alternative (or alternatives) uses land from more than one Section 4(f) property, a summary table would be useful in comparing the various impacts of the alternative(s). Impacts (such as facilities and functions affected, noise, etc.) that can be quantified should be quantified. Other impacts (such as visual intrusion) that cannot be quantified should be described.

4. Avoidance Alternatives.

Identify and evaluate location and design alternatives that would avoid the Section 4(f) property. Generally, this would include alternatives to either side of the property. Where an alternative would use land from more than one Section 4(f) property, the analysis needs to evaluate alternatives which avoid each and all properties (23 CFR 771.135(i)). The design alternatives should be in the immediate area of the property and consider minor alignment shifts, a reduced facility, retaining structures, etc. individually or in combination, as appropriate. Detailed discussions of alternatives in an EIS or EA need not be repeated in the Section 4(f) portion of the document, but should be referenced and summarized. However, when alternatives (avoiding Section 4(f) resources) have been eliminated from detailed study the discussion should also explain whether these alternatives are feasible and prudent and, if not, the reasons why.

5. Measures to Minimize Harm.

Discuss all possible measures which are available to minimize the impacts of the proposed action on the Section 4(f) property(ies). Detailed discussions of mitigation measures in the EIS or EA may be referenced and appropriately summarized, rather than repeated.

6. Coordination.

Discuss the results of preliminary coordination with the public official having jurisdiction over the Section 4(f) property and with regional (or local) offices of DOI and, as appropriate, the Regional Office of HUD and the Forest Supervisor of the affected National Forest. Generally, the coordination should include discussion of avoidance alternatives, impacts to the property, and measures to minimize harm. In addition, the coordination with the public official having jurisdiction should include, where necessary, a discussion of significance and primary use of the property.

Note: The conclusion that there are no feasible and prudent alternatives is not normally addressed at the draft Section 4(f) evaluation stage. Such conclusion is made only after the draft Section 4(f) evaluation has been circulated and coordinated and any identified issues adequately evaluated.

B. Final Section 4(f) Evaluation

When the preferred alternative uses Section 4(f) land, the final Section 4(f) evaluation must contain (23 CFR 771.135(i) and (j)):

1. All the above information for a draft evaluation.

2. A discussion of the basis for concluding that there are no feasible and prudent alternatives to the use of the Section 4(f) land. The supporting information must demonstrate that "there are unique problems or unusual factors involved in the use of alternatives that avoid these properties or that the cost, social, economic, and environmental impacts, or community disruption resulting from such alternatives reach extraordinary magnitudes" (23 CFR 771.135(a)(2)). This language should appear in the document together with the supporting information.
3. A discussion of the basis for concluding that the proposed action includes all possible planning to minimize harm to the Section 4(f) property. When there are no feasible and prudent alternatives which avoid the use of Section 4(f) land, the final Section 4(f) evaluation must demonstrate that the preferred alternative is a feasible and prudent alternative with the least harm on the Section 4(f) resources after considering mitigation to the Section 4(f) resources.
4. A summary of the appropriate formal coordination with the Headquarters Offices of DOI (and/or appropriate agency under that Department) and, as appropriate, the involved offices of USDA and HUD.
5. Copies of all formal coordination comments and a summary of other relevant Section 4(f) comments received an analysis and response to any questions raised. Where new alternatives or modifications to existing alternatives are identified and will not be given further consideration, the basis for dismissing these alternatives should be provided and supported by factual information. Where Section 6(f) land is involved, the National Park Service's position on the land transfer should be documented.
6. Concluding statement as follows: "Based upon the above considerations, there is no feasible and prudent alternative to the use of land from the (identify Section 4(f) property) and the proposed action includes all possible planning to minimize harm to the (Section 4(f) property) resulting from such use."

X. OTHER AGENCY STATEMENTS

- A. The FHWA review of statements prepared by other agencies will consider the environmental impact of the proposal on areas within FHWA's functional area of responsibility or special expertise (40 CFR 1503.2).
- B. Agencies requesting comments on highway impacts usually forward the draft EIS to the FHWA Washington Headquarters for comment. The FHWA Washington Headquarters will normally distribute these EISs to the appropriate Regional or Division Office (per Regional Office request) and will indicate where the comments should be sent. The Regional Office may elect to forward the draft statement to the Division Office for response.
- C. When a field office has received a draft EIS directly from another agency, it may comment directly to that agency if the proposal does not fall within the types indicated in item (d) of this section. If more than one DOT

Administration is commenting at the Regional level, the comments should be coordinated by the DOT Regional Representative to the Secretary or designee. Copies of the FHWA comments should be distributed as follows:

1. Requesting agency--original and one copy.
 2. P-14--one copy.
 3. DOT Secretarial Representative--one copy.
 4. HEV-11--one copy.
- D. The following types of actions contained in the draft EIS require FHWA Washington Headquarters review and such EISs should be forwarded to the Director, Office of Environmental Policy, along with Regional comments, for processing:

1. actions with national implications, and
2. legislation or regulations having national impacts or national program proposals.

XI. REEVALUATIONS

A. Draft EIS Reevaluation

If an acceptable final EIS is not received by FHWA within 3 years from the date of the draft EIS circulation, then a written evaluation is required to determine whether there have been changes in the project or its surroundings or new information which would require a supplement to the draft EIS or a new draft EIS (23 CFR 771.129(a)). The written evaluation should be prepared by the HA in consultation with FHWA and should address all current environmental requirements. The entire project should be revisited to assess any changes that have occurred and their effect on the adequacy of the draft EIS.

There is no required format for the written evaluation. It should focus on the changes in the project, its surroundings and impacts, and any new issues identified since the draft EIS. Field reviews, additional studies (as necessary), and coordination (as appropriate) with other agencies should be undertaken and the results included in the written evaluation. If, after reviewing the written evaluation, the FHWA concludes that a supplemental EIS or a new draft EIS is not required, the decision should be appropriately documented. Since the next major step in the project development process is preparation of a final EIS, the final EIS may document the decision. A statement to this fact, the conclusions reached, and supporting information should be briefly summarized in the Summary Section of the final EIS.

B. Final EIS Reevaluation

There are two types of reevaluations required for a final EIS: consultation and written evaluation (23 CFR 771.129(b) and (c)). For the first,

consultation, the final EIS is reevaluated prior to proceeding with major project approval (e.g., right-of-way acquisition, final design, and plans, specifications, and estimates (PS&E)) to determine whether the final EIS is still valid. The level of analysis and documentation, if any, should be agreed upon by the FHWA and HA. The analysis and documentation should focus on and be commensurate with the changes in the project and its surroundings, potential for controversy, and length of time since the last environmental action. For example, when the consultation occurs shortly after final EIS approval, an analysis usually should not be necessary. However, when it occurs nearly 3 years after final EIS approval, but before a written evaluation is required, the level of analysis should be similar to what normally would be undertaken for a written evaluation. Although written documentation is left to the discretion of the Division Administrator, it is suggested that each consultation be appropriately documented in order to have a record to show the requirement was met.

The second type of reevaluation is a written evaluation. It is required if the HA has not taken additional major steps to advance the project (i.e., has not received from FHWA authority to undertake final design, authority to acquire a significant portion of the right-of-way, or approval of the PS&E) within any 3-year time period after approval of the final EIS, the final supplemental EIS, or the last major FHWA approval action.

The written evaluation should be prepared by the HA in consultation with FHWA and should address all current environmental requirements. The entire project should be revisited to assess any changes that have occurred and their effect on the adequacy of the final EIS.

There is no required format for the written evaluation. It should focus on the changes in the project, its surroundings and impacts, and any new issues identified since the final EIS was approved. Field reviews, additional environmental studies (as necessary), and coordination with other agencies should be undertaken (as appropriate to address any new impacts or issues) and the results included in the written evaluation. The FHWA Division Office is the action office for the written evaluation. If it is determined that a supplemental EIS is not needed, the project files should be documented appropriately. In those rare cases where an EA is prepared to serve as the written evaluation, the files should clearly document whether new significant impacts were identified during the reevaluation process.

XII. SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENTS (EISs)

Whenever there are changes, new information, or further developments on a project which result in significant environmental impacts not identified in the most recently distributed version of the draft or final EIS, a supplemental EIS is necessary (40 CFR 1502.9(c)). If it is determined that the changes or new information do not result in new or different significant environmental impacts, the FHWA Division Administrator should document the determination. (After final EIS

approval, this documentation could take the form of notation to the files; for a draft EIS, this documentation could be a discussion in the final EIS.)

A. Format and Content of a Supplemental EIS

There is no required format for a supplemental EIS. The supplemental EIS should provide sufficient information to briefly describe the proposed action, the reason(s) why a supplement is being prepared, and the status of the previous draft or final EIS. The supplemental EIS needs to address only those changes or new information that are the basis for preparing the supplement and were not addressed in the previous EIS (23 CFR 771.130(a)). Reference to and summarizing the previous EIS is preferable to repeating unchanged, but still valid, portions of the original document. For example, some items such as affected environment, alternatives, or impacts that are unchanged may be briefly summarized and referenced. New environmental requirements which became effective after the previous EIS was prepared need to be addressed in the supplemental EIS to the extent they apply to the portion of the project being evaluated and are relevant to the subject of the supplement (23 CFR 771.130(a)). Additionally, to provide an up-to-date status of compliance with NEPA, it is recommended that the supplement summarize the results of any reevaluations that have been performed for portions of or the entire proposed action. By this inclusion, the supplement will reflect an up-to-date consideration of the proposed action and its effects on the human environment. When a previous EIS is referenced, the supplemental EIS transmittal letter should indicate that copies of the original (draft or final) EIS are available and will be provided to all requesting parties.

B. Distribution of a Supplemental EIS

A supplemental EIS will be reviewed and distributed in the same manner as a draft and final EIS (23 CFR 771.130(d)). (See Section VII for additional information.)

XIII. Appendices

Two appendices are included as follows:

Appendix A: Environmental Laws, Authority, and Related Statutes and Orders

Appendix B: Preparation and Processing of Notices of Intent.

ENVIRONMENTAL LAWS, AUTHORITY, AND RELATED STATUTES AND ORDERS

AUTHORITY:

42 United States Code (U.S.C.) 4321 et seq., National Environmental Policy Act of 1969, as amended.

23 U.S.C. 138 and 49 U.S.C. 303, Section 4(f) of the Department of Transportation (DOT) Act of 1966.

23 U.S.C. 109(h), (i), and (j) standards.

23 U.S.C. 128, Public Hearings.

23 U.S.C. 315, Rules, Regulations, and Recommendations.

23 Code of Federal Regulations (CFR), Part 771, Environmental Impact and Related Procedures.

40 CFR 1500 et seq., Council on Environmental Quality, Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act.

49 CFR 1.48(b), DOT Delegations of Authority to the Federal Highway Administration.

DOT Order 5610.1c, Procedures for Considering Environmental Impacts, September 18, 1979, and subsequent revisions.

RELATED STATUTES AND ORDERS: The following is a list of major statutes and orders on the preparation of environmental documents.

7 U.S.C. 4201 et seq., Farmland Protection Policy Act of 1981.

16 U.S.C. 461 et seq., Archaeological and Historic Preservation Act; and 23 U.S.C. 305.

16 U.S.C. 470f, Sections 106, 110(d), and 110(f) of the National Historic Preservation Act of 1966.

16 U.S.C. 662, Section 2 of the Fish and Wildlife Coordination Act.

16 U.S.C. 1452, 1456, Sections 303 and 307 of the Coastal Zone Management Act of 1972.

16 U.S.C. 1271 et. seq., Wild and Scenic Rivers Act.

16 U.S.C. 1536, Section 7 of the Endangered Species Act of 1973.

33 U.S.C. 1251 et seq., Clean Water Act of 1977.

33 U.S.C. 1241 et seq., Resource Conservation and Recovery Act.

42 U.S.C. 300(f) et seq., Safe Drinking Water Act.

42 U.S.C. 4371 et seq., Environmental Quality Improvement Act of 1970.

42 U.S.C. 4601 et seq., Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

42 U.S.C. 4901 et seq., Noise Control Act of 1972.

42 U.S.C. 9601 et seq., Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

42 U.S.C. 7401 et seq., Clean Air Act.

42 U.S.C. 2000d-d4, Title VI of the Civil Rights Act of 1964.

43 U.S.C. Coastal Barriers Resources Act of 1982.

Executive Order 11514, Protection and Enhancement of Environmental Quality, as amended by Executive Order 11991, dated May 24, 1977.

Executive Order 11593, Protection and Enhancement of the Cultural Environment, dated May 13, 1971, implemented by DOT Order 5650.1, dated, November 20, 1972.

Executive Order 11988, Floodplain Management, dated May 24, 1977, implemented by DOT Order 5650.2, dated April 23, 1979.

Executive Order 11990, Protection of Wetlands, dated May 24, 1977, implemented by DOT Order 5660.1A, dated August 24, 1978.

Preparation and Processing of Notices of Intent

The CEQ regulations and Title 23, Code of Federal Regulations, Part 771, Environmental Impact and Related Procedures, require the Administration to publish a notice of intent in the Federal Register as soon as practicable after the decision is made to prepare an environmental impact statement (EIS) and before the scoping process (40 CFR 1501.7). A notice of intent will also be published when a decision is made to supplement a final EIS, but will not be necessary when preparing a supplement to a draft EIS (23 CFR 771.130(d)). The responsibility for preparing notices of intent has been delegated to Regional Federal Highway Administrators and subsequently redelegated to Division Administrators. The notice should be sent directly to the Federal Register at the address provided in Attachment 1 and a copy provided to the Project Development Branch (HEV-11), Office of Environmental Policy, and the appropriate Region Office.

In cases where a notice of intent is published in the Federal Register and a decision is made not to prepare the draft EIS or, when the draft EIS has been prepared, a decision is made not to prepare a final EIS, a revised notice of intent should be published in the Federal Register advising of the decision and the reasons for not preparing the EIS. This applies to future and current actions being processed.

Notices of intent should be prepared and processed in strict conformance with the guidelines in Attachment 1 in order to ensure acceptance for publication by the Office of

the Federal Register. A sample of each notice of intent for preparation of an EIS and a supplemental EIS is provided as Attachment 2.

The Project Development Branch (HEV-11) will serve as the Federal Register contact point for notice of intent. All inquiries should be directed to that office.

GUIDELINES FOR PREPARATION AND PROCESSING OF NOTICES OF INTENT

FORMAT

1. Typed in black on white bond paper.
2. Paper size: 8 1/2" x 11".
3. Margins: Left at least 1 1/2", all others 1".
4. Spacing: All material double spaced (except title in heading).
5. Heading: Four items on first page at head of document (see Attachment 2):
 - Billing Code No. 4910-22 typed in brackets or parentheses
 - DEPARTMENT OF TRANSPORTATION (all upper case)
 - Federal Highway Administration
 - ENVIRONMENTAL IMPACT STATEMENT; COUNTY OR CITY, STATE (all upper case; single space)
5. Text: Five sections - AGENCY, ACTION, SUMMARY, FOR FURTHER INFORMATION CONTACT, AND SUPPLEMENTARY INFORMATION; each section title in upper case followed by colon (see Content (below) and Samples 1 and 2).
6. Closing:
 - Include the Catalog of Federal Domestic Assistance number and title
 - Issued on:

(indent 5 spaces and type or stamp in date when document is signed)
 - Signature line

(begin in middle of page; type name, title, and city under the signature; use name and title of the official actually signing the document (e.g., "John Doe, District Engineer," not "John Doe, for the Division Administrator"))
8. Document should be neat and in form suitable for public inspection. Two or more notices of intent can be included in a single document by making appropriate revisions to the heading and text of the document.

CONTENT

1. AGENCY: Federal Highway Administration (FHWA), DOT.

2. ACTION: Notice of Intent.
3. SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in
4. FOR FURTHER INFORMATION CONTACT: This section should state the name and address of a person or persons within the FHWA Division Office who can answer questions about the proposed action and the EIS as it is being developed. The listing of a telephone number is optional. State and/or local officials may also be listed, but always following the FHWA contact person.
5. SUPPLEMENTARY INFORMATION: This section should contain:

- a. a brief narrative description of the proposed action (e.g., location of the action, type of construction, length of the project, needs which will be fulfilled by the action);

For a supplement to a final EIS add: the original EIS number and approval date, and the reason(s) for preparing the supplement;

- b. a brief description of possible alternatives to accomplish the goals of the proposed action (e.g., upgrade existing facility, do nothing (should always be listed), construction on new alignment, mass transit, multi-modal design); and
- c. a brief description of the proposed scoping process for the particular action including whether, when, and where any scoping meeting will be held.

For a supplement to a final EIS: the scoping process is not required for a supplement; however, scoping should be discussed to the extent anticipated for the development of the supplement;

In drafting this section -

- use plain English
- avoid technical terms and jargon
- always refer to the proposed action or proposed project (e.g., the proposed action would . . .)
- identify all abbreviations
- list FHWA first when other agencies (State or local) are listed as being involved in the preparation of the EIS

PROCESSING

1. Send three (3) duplicate originals each signed in ink by the issuing officer to:

Office of the Federal Register
National Archives and Records Administration
Washington, DC 20408

2. The duplicates must be identical in all respects. The Federal Register will accept electrostatic copies as long as they are readable and individually signed.
3. Three (3) additional copies are required if material is printed on both sides. If a single original and two certified copies are sent, the statement "CERTIFIED TO BE A TRUE COPY OF THE ORIGINAL" and the signature of a duly authorized certifying officer must appear on each certified copy.
4. A record should be kept of the date on which each notice is mailed to the Federal Register.
5. Send one (1) copy each to the Project Development Branch (HEV-11) and the Regional office.

S A M P L E 1

[4910-22]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

ENVIRONMENTAL IMPACT STATEMENT: _____ COUNTY, IDAHO

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in _____ County, Idaho.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Moreno, Division Administrator, Federal Highway Administration, 3050 Lake Harbor Lane, Suite 126, Boise, Idaho 83703, Telephone: (208) 334-9180.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Idaho Transportation Department, will prepare an environmental impact statement (EIS) on a proposal to improve U.S. Route _____ in _____ County, Idaho. The proposed improvement would involve the reconstruction of the existing (route) between the towns of _____ and _____ for a distance of about _____ miles.

(Include here a short paragraph describing the purpose and need, general construction activity and alternatives. See the next paragraph as an example only).

Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand. Also, included in this proposal is the replacement of the existing East End Bridge and a new interchange with Washington Highway 20 (W.H. 20) west of Eastern. Alternatives under consideration include (1) taking no action; (2) using alternate travel modes; (3) widening the existing two-lane highway to four lanes; and (4) constructing a four-lane, limited access highway on new location. Incorporated into and

studied with the various build alternatives will be design variations of grade and alignment.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A series of public meetings will be held in _____ between (or on dates). In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments, and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: mm/dd/yy.

Steve Moreno
Division Administrator
Boise

S A M P L E 2

[4910-22]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

ENVIRONMENTAL IMPACT STATEMENT: _____ COUNTY, IDAHO

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a supplement to a final environmental impact statement will be prepared for a proposed highway project in _____ County, Idaho.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Moreno, Division Administrator, Federal Highway Administration, 3050 Lake Harbor Lane, Suite 126, Boise, Idaho 83703, Telephone: (208) 334-9180.

SUPPLEMENTARY INFORMATION: SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Idaho Transportation Department, will prepare an environmental impact statement (EIS) on a proposal to improve U.S. Route _____ in _____ County, Idaho. The proposed improvement would involve the reconstruction of the existing (route) between the towns of _____ and _____ for a distance of about _____ miles.

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Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand. Also, included in this proposal is the replacement of the existing East End Bridge and a new interchange with Washington Highway 20 (W.H. 20) west of Eastern. Alternatives under consideration include (1) taking no action; (2) using alternate travel modes; (3) widening the existing two-lane highway to four lanes; and (4) constructing a four-lane, limited access highway on new location. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A series of public meetings will be held in _____ between (or on dates). In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: mm/dd//yy.

Exhibit 300-5. Legislation, Regulations and Policies Impacting the 654 form

Codes and Regulations as Related to the ITD 654 Form

Item	References	Title/Subject
GENERAL:		
NEPA	42 USC 4321 et. Seq. 23 CFR 771 40 CFR 6 EO 11514 (70) EO 11991 (77)	National Environmental Policy Act - 1969 Re: NEPA Responsibilities Re: NEPA Amendments
	EO 11991 40 CFR 1500/1508 42-USC 4371 (74) T 6640.8A	“Regulations for Implementing the Procedural provisions of NEPA” FHWA Guidance for Preparing and Processing Environmental and Section 4(f) Documents
CEQ		
DESIGN & R/W: Bicycles	23 USC 109,217,315 23 CFR 652	“Ped & Bicycle Accommodations & Projects” AASHTO Guide for Dev. of Bicycle Facilities
Displacements	42 USC 4601 49 CFR 25 23 CFR 740 DOT Instructional Memo 20-2-72 DOT Memo of 11 OCT 85	Relocations and Property Acquisitions Relocation Assistance “Guidelines for Consideration of Economic, Social, and Environmental Effects” “Nondiscrimination as an Integral Part of Daily Operations and Activities”
CHECKLIST:		
1-Noise	42 USC 4601 23 USC 109(h) DOTInst. Memo, 20-2-72 42 USC 4331, 4332 23 CFR 772 40 CFR 204	Noise Control Act of 1972 Guidelines for Consolidation of Economic, Social, & Environmental Effects “Procedures for Abatement of Highway Traffic Noise a Construction Noise” “Noise Emission Standards for Construction Equipment”

Item	References	Title/Subject
Noise (Cont'd)	40 CFR 205	Transportation Equip.Noise Controls
	DOT Memo 18May 87	“Traffic Noise Analysis for Highways Which Add Through Traffic Lanes”
2- Substantial Earthwork NPDES – General	33 USC 1251 et. seq. 40 CFR 122 §122.28 23 CFR 650B	Clean Water Act (CWA) 1977-Section 402 General Permit “Erosion & Sediment Control on Highway Construction Project
	DOT Instructional Memo 20-2-72	“Guidelines for consolidation of Economic, Social, and Environmental Effects”
COE 404 Permits	33 USC 1251 et. seq. 33 USC 1344 33 CFR 323 CEQ Memo of 17 Nov 80	Federal Water Pollution Control Act Amendments of 1972-Section 404 CWA of 1977 Guidance on applying the CWA to Federal Projects that involve the discharge of dredged or Fill Materials into waters of the US, Including wetlands 404(b)(1) Guidelines Nationwide Exempt Activities
3-Access	23 USC 128,109h T6640.8A	V.G. 3 “Social Impacts”
4-Travel Patterns	23 USC 128,109h	
5-Neighborhood	23 USC 109h Memo 2-20-72 DOT Memo 11 OCT 85	“Guidelines for consideration of Economic, Social & Env. Effects” “Nondiscrimination as an of Integral Part of Daily Operations and Activities”

Item	References	Title/Subject
6-Parking, Economic Disruption	23 USC 128,109h DOT Memo of 11 OCT 85	“Guidelines for Consideration of Economic, Social, and Environmental Effects” “Nondiscrimination as an Integral Part of Daily Operations and Activities”
7-Construction Closures	23 USC 128,109h T6640. 8a	V.G. 23 “Construction or Detours Impacts” Between Local Short Term Uses of Man’s Environment & The Maintenance & Enhancement of Long-Term Productivity”
8-Energy Conservation	EO 12185 N5520.4 of 21 Mar 80	“Conservation of Petroleum & Natural Gas” “FHWA Policy on Energy Conservation
9-Local/State Planning	23 USC 128 DOT Inst Memo Of 20-2-72	Public Hearings “Guidelines for Consideration of Economic Social, and Environmental Effects”
10-Minorities	42 USC 2000-d4 23 CFR 200 23 USC 109h, 49 CFR 21 DOT Memo of 11 OCT 85 EO 12898 23 CFR 771.105c	Title VI of the Civil Rights Act of 1964 128“Non-discrimination in Federally Assisted Programs of the DOT” “Nondiscrimination as an Integral Part of Daily Operations and Activities” Federal Action to Address Environmental Justice in Minority and Low -Income Populations – 1994
11- Indian Reservations	25 CFR 170	Road Construction & Maint. on Indian Land
12-Public Controversy	23 USC 128 23 CFR 771.111 23 CFR 790 §790.3(3)(c)	Public Hearings Public Hearings & Location/Design Approval “Social, Economic& Environmental Effects

Item	References	Title/Subject
13-Section 4(f)	49 USC 303 23 CFR 771.335 23 USC 138 16 USC 1274 et. seq. 36 CFR 297 DOT Inst. Memo of 20-2-72	DOT Act of 1966- Section 4(f) Federal Aid to highways Act –Section 15(a) Wild and Scenic Rivers Act “Guidelines for Consideration of Economic Social, and Environmental Effects”
14- LWCF 6(f)	16 USC 460	Land and Water Conservation Fund Act Section 6(f)
15-Section	10616 USC 470 36 CFR 800 36 CFR 60 36 CFR 63 EO 11593 – 1971 43 CFR 7 16 USC 461 et. seq. 36 CFR 62.6(d) 48 CFR 44716	National Historic Preservation Act of 1966 Section 106 – Advisory Council on Historic Preservation- opportunity to comment. Protection of Historic and Cultural Properties National Register of Historic Places (NHRP) for Inclusion in the NHRP “Protection & Enhancement of the Cultural Environment. Section 1(3)-Assure programs contribute to the preservation & enhancement of cultural properties. Section 2(b)- Locate, inventory & nominate Protection of Archeological Resources Historic Sites Act Archeological and Historic Preservation Act of 29 Sept. 83
16-Alternatives	42 USC 4321 et. seq. 23 CFR 771 EO 11514	NEPA requirement re: significant actions of Environmental Quality”
17-Sole Source Aquifer	42 USC 300 40 CFR 149 43 FR 28-5566 53 FR 191-38762 56 FR 194-50635	Sole Source Aquifers Spokane Valley-Rathdrum Prairie. 9 Feb 78 Lewiston Basin, 3 Oct. 88 Eastern Snake River Plain

Item	References	Title/Subject
18-Air Quality	42 USC 401 et. seq. 40 CFR 50-52 23 USC 109 (h) of 20-2-72	Clean Air Act (CAA) “Guidelines for Consideration of Economic, Social, and Environmental Effects of Proposed Highway Projects” “Rules for Control of Fugitive Dust”
	391dC105,107 IDAPA 16.01.1251	
19-Air Quality Plan TIP/SIP	42 USC 7476(c) 40 CFR 51, 52A,N DOT INST. Memo 20-2-72	CAA (1977) Section 10 “Guidelines for Consideration Of Economic Social, and Environmental Effects”
20- Prime Farm Land Parcel Split	7 USC 4201 et. seq. 7 CFR 658	Farmland Protection Act
21-Wildlife & Fish Resources, Habitat	16 USC 661, 662 16 USC 742a et. seq	Fish and Wildlife Coordination Act Fish and Wildlife Act 1956
22-Threatened & Endangered Species	16 USC 1531 et. seq. 50 CFR 17 50 CFR 402	Endangered Species Act Section 7, Implementation
23-Stream Encroachment	42 ID C 38 16USC 662(a)	Idaho Stream Channel /Alteration Protection Act Fish and Wildlife Coordination Act - 1958
24-Floodplain Encroachment	EO 11988 EO 12148 DOT 5650.2 23 CFR 650A 33 CFR 320.4(l)	“Floodplain Management” Amendment to EO 11988 “Location & Hydraulic Design Encroachments on Floodplains” “Floodplain Management”
25-Regulatory Floodway	42 USC 4001-20	Flood Disaster Protection Act National Flood Insurance Act
26-Navigable Waters	33 USC 401-403 33 CFR 321 33 CFR 322 58 ID C142 DOT Instruction Memo 50-5-71	Rivers & Harbors Act of 1899 as amended & supplemented Section 9-Coast Guard Permit Section 10- COE Permit Idaho Lake Protection Act “Permits Required for Highway Work in or Adjacent To Streams”

Item	References	Title/Subject
27-Wetlands	16 USC 1301 7 CFR 752 EO 11990 16 USC 3901 33 CFR 320.4(b) 23 CFR 777 33 USC 1251	Water Bank Act “Protection of Wetlands” Emergency Wetlands Resources Act – 1986 “Mitigation of Environmental Impacts to Private wetlands” Clean Water Act (CWA)
28-FAA Airspace	23 USC 315 23 CFR 620	Highway Improvements in the A Vicinity of Airports
29-Batch Plants Staging Areas	39 IdCD105, 107 IDAPA16.01.1601 23 USC 128, 109h T6640.8A	“Rules for Control of Hot-Mix Asphalt Plants” V.G. 23 “Construction Impacts” V.G. 24 “ The Relationship between Local Short term Uses of Man’s Environment and the Maintenance of Long Term Productivity”
30-Visual Resources	23 USC 319 23 CFR 752 DOT Inst. Memo 20-2-72	“Landscape and Roadside Development” “Guidelines for consideration of Economic, Social and Environmental Effects”
31-Haz/Mat	42 USC 6901 et.seq. 40 CFR 240-299 40 CFR 260-271 USC 136 40 CFR 165 40 CFR 761-2 42 USC 9601 et.seq. 40 CFR 300 33 USC1251 et.seq. 40 CFR116 40 CFR 129 42 USC 7401 et.seq. 40 CFR 61	Solid waste Disposal Act of 1965, as amended Resource Conservation & Recovery Act of 1976 (RCRA) Federal Insecticide, Fungicide & Rodenticide Act Toxic Substances Control Act (TSCA), PCBs-CFCs Comprehensive Environmental Response, Compensation & Liability Act of 1980 (CERCLA) Superfund Amendments & Reauthorize. Act – 1986 Federal Water Pollution Control Act, as amended Designation of Hazardous Substances Toxic Effluent Standards CAA- section 112, NESHAP/Asbestos, etc.

Item	References	Title/Subject
32-Water Quality	33 USC 1251 et.seq.	Federal Water Pollution Control Runoff Act, as amended
	40 CFR 401	General Provisions
	33 USC 1351 et.seq.	Clean Water Act-NPDES, Permit
	40 CFR 122	Program
	40 CFR 130-1	Water Quality Standards
	23 USC 109(h)	Guidelines for consideration of Economic, Social and Environmental Effects”
	DOT Inst. Memo 20-2-72	
PURPOSE:	FHWA Memo of 18 Sept. 90	“Purpose and Need in Environmental Documents”
MITIGATION	23 CFR 771.105d	Mitigation Eligible for Federal Funding
	23 CFR 630C	App. A 20. Environmental Impact Mitigation Features

Programmatic Agreement

**Between Federal Highway Administration Idaho Division
Office,**

and the Idaho Transportation Department

**Regarding NEPA Categorical Exclusion Documents for
Minor Projects**

Intent of Agreement

The Idaho Transportation Department (ITD) and the Idaho Division of the Federal Highway Administration (FHWA) concur in advance with the classification of actions which meet the criteria of Categorical Exclusions (CEs), identified in 23 CFR Part 771.117(d) with minimal environmental impacts. The intent of this agreement is to provide for the treatment of certain projects classified as CE's under 23 CFR 771.117(d) in a manner similar to and consistent with that described for minor projects described under 23 CFR 771.117(c)

Conditions for Inclusion

Actions processed by ITD under this programmatic agreement will conform to the conditions outlined below. ITD certifies that all the conditions of this agreement will be satisfied for each project processed under this programmatic approval process. All of the following conditions must be satisfied for each project for this programmatic agreement to be used as a basis for approval of environmental documents.

1. The action does not involve significant environmental impacts as described in 23 CFR 771.117(a): i.e., no significant impacts to planned growth or land use, relocations; no significant impacts on natural, cultural, recreational, historic or other resources; no significant air, noise, or water quality impacts; no significant impacts on travel patterns; and no significant environmental impacts, either individually or cumulatively.
2. The action does not involve unusual circumstances as described in 23 CFR 771.117(b): i.e., no significant environmental impacts, substantial controversy on environmental grounds, impact on properties protected by Section 4(f) of the DOT Act or Section 106 of the National Historic Preservation Act, or inconsistencies with any law or requirement relating to the environmental aspects of the action.

- 2.
3. The action does not involve the following:
 - a. The acquisition of more than minor amounts of temporary or permanent strips of right-of-way for construction of such items as clear vision corners and grading. Such acquisitions will not require any commercial or residential displacements. A minor amount of right-of-way is defined as not more than 10 percent of a parcel and not exceeding 1 acre of total right-of-way acquisition.
 - b. The use of properties protected by Section 4(f) of the Department of Transportation Act (49 U.S.C. 303).
 - c. A determination of adverse effect by the State Historic Preservation Officer. The Programmatic Agreement for Minor Highway Improvements dated December 15, 2000, may be utilized as a basis for this determination. Projects which are not covered by the December 15, 2000 Agreement must have individual Section 106 determinations in accordance with procedures agreed upon by ITD and FHWA.
 - d. Any U.S. Coast Guard construction permits or any US Army Corps of Engineers Section 404 permits.
 - e. Any work in wetlands.
 - f. Any work encroaching on a regulatory floodway or any work affecting the base floodplain (100-year flood) elevations of a watercourse or lake.
 - g. Construction in, across or adjacent to a river designated as a component or proposed for inclusion in the National System of Wild and Scenic Rivers published by the US Department of the Interior/US Department of Agriculture.
 - h. Any changes in access control, including temporary construction access points on the interstate system.
 - i. Use of a temporary road, detour or ramp closure unless the use of such facilities satisfy the following conditions:
 - (1) Provisions are made for access by local traffic and so posted.
 - (2) Through-traffic dependent business will not be adversely affected.
 - (3) The detour or ramp closure, to the extent possible, will not interfere with any local special event or festival.
 - (4) The temporary road, detour or ramp closure does not change the environmental consequences of the action.
 - (5) There is no controversy associated with the temporary road, detour, or ramp closure.

Any known hazardous materials sites or previous land uses with potential for hazardous materials.

4. The action will conform to the requirements of the Americans with Disabilities Act. Appropriate and safe accommodation for bicyclists and pedestrians will be included in the action.
5. The action does not meet the definition of a Type I project per 23 CFR 772, **or** does not have any noise impacts based on the traffic noise screening criteria in the ITD Noise Policy (May 2003).
6. The action conforms to the Air Quality Implementation Plan which is approved or promulgated by the Environmental Protection Agency in air quality non-attainment areas.
7. The action occurs in an area where there are no effects to federally listed endangered or threatened species or critical habitat. Determinations of “No Effect” on listed species will be documented for each species on the current county species list provided by the U.S. Fish and Wildlife Service.

Qualifying Projects

In general, projects that would qualify for processing under the terms of this agreement consist of minor improvements to existing facilities. Types of projects covered by this programmatic agreement may include:

- Bridge deck repairs and joint repairs
- Seal coats
- Guardrail
- Bike and pedestrian paths
- Signing
- Pavement marking
- Illumination
- Traffic signals
- Railroad crossings, gates, and/or signals
- Renovations of POE or rest area facilities

This list is not mean to be all-inclusive or a definitive determination of suitability for any project that may fit into one of these categories. Other projects meeting the criteria outlined may also qualify for coverage under this programmatic agreement. These might include certain resurfacing projects that are preventative maintenance in nature and do not involve work outside the existing roadway prism.

Projects with characteristics that do not conform to the 7 conditions outlined above are expressly excluded from coverage by this agreement. Those project

actions will require 7separate environmental evaluations performed in accordance with 23 CFR 771.

Advance Concurrence with No Effect Determinations

For project actions which meet the criteria outlined above, FHWA concurs in advance with determinations by ITD that these would have “No Effect” on Threatened or Endangered Species under Section 7 of the Endangered Species Act. ITD shall record the basis for their No Effect determination and retain this information in their files for each project.

ITD Responsibilities

ITD will ensure that the foregoing conditions have been satisfied, and all determinations made by ITD under this programmatic agreement will be documented and retained on file at ITD (documentation will include a completed *Environmental Evaluation*, ITD-654). ITD will indicate their conformance with the terms of this programmatic agreement and satisfactory completion of an environmental evaluation in a letter to FHWA for each individual project processed under the terms of this agreement.

Program Reviews

Periodic program level reviews will be undertaken either by FHWA alone or working jointly with ITD to evaluate the implementation and effectiveness of this programmatic agreement.

Agreement of Parties

This programmatic agreement is intended to facilitate and enhance environmental streamlining for transportation projects in the state of Idaho. It does not create any new regulatory or legal requirements. If any the signatory party to this agreement determines that the requirements of environmental process under 23 CFR 771 is not being satisfied, that party shall notify the other party to the agreement in writing. A conference between the parties shall then be conducted to resolve the issues of concern. If no resolution can be reached, this agreement will be null and void, and the environmental evaluation processing will then be conducted as set forth in the federal regulations.

/s/ Steven C. Hutchinson

5/20/03

Idaho Transportation Department

Date

/s/ Pamela S. Cooksey

5/20/03

Federal Highway Administration

Date

Environmental Evaluation

Project: STP-3110(141)

US-95, 4th St. to Roswell Blvd. Sidewalk

Key 09345

Canyon County



**Submitted by District 3
April 2007**

**A (d) list Categorical Exclusion
Environmental Approval Decision**

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Signed: _____
Federal Highway Administration Date

